

Senate File 311 - Introduced

SENATE FILE 311

BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 1010)

A BILL FOR

- 1 An Act relating to city civil service employees and related
- 2 procedures and including effective date provisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 364.3, Code 2025, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 20. A city with a civil service commission
4 established under chapter 400 shall not adopt, enforce, or
5 otherwise administer an ordinance, motion, resolution, or
6 amendment, or use any other means, to establish a board or
7 other entity for the purpose of citizen review of the conduct of
8 officers as defined under section 80F.1, subsection 1, paragraph
9 "f".

10 Sec. 2. Section 400.1, subsection 1, Code 2025, is amended to
11 read as follows:

12 1. In cities having a population of eight thousand or over
13 and having a paid fire department or a paid police department,
14 the mayor, one year after a regular city election, with the
15 approval of the council, shall appoint three civil service
16 commissioners. The mayor shall publish notice of the names of
17 persons selected for appointment no less than thirty days prior
18 to a vote by the city council. Commissioners shall hold office,
19 one until the first Monday in April of the second year, one until
20 the first Monday in April of the third year, and one until the
21 first Monday in April of the fourth year after such appointment,
22 whose successors shall be appointed for a term of four years. In
23 cities having a population of more than ~~seventy~~ fifty thousand,
24 the city council ~~may~~ shall establish, by ordinance, the number of
25 civil service commissioners at not less than ~~three~~ five but not
26 more than seven.

27 Sec. 3. Section 400.18, subsections 1 and 3, Code 2025, are
28 amended to read as follows:

29 1. A person holding civil service rights as provided in
30 this chapter shall ~~not only~~ be removed, discharged, demoted, or
31 suspended ~~arbitrarily, but may be removed, discharged, demoted,~~
32 ~~or suspended due to any act or failure to act by~~ with just
33 cause and upon a finding by a preponderance of the evidence
34 that an act or failure to act by the employee that is in
35 contravention violation of law, city policies, or ~~standard~~

1 ~~operating procedures, or that in the judgment of the person~~
 2 ~~having the appointing power as provided in this chapter, or the~~
 3 ~~chief of police or chief of the fire department, is sufficient~~
 4 ~~to show that the employee is unsuitable or unfit for employment~~
 5 rules, or that the employee is physically or mentally unfit
 6 as determined under guidelines established pursuant to section
 7 400.8A. This subsection shall not be construed to modify the
 8 rights, requirements, or procedures provided in section 400.8A or
 9 other rights, requirements, or procedures provided by law.

10 3. The city shall have the burden to prove that the act or
 11 failure to act by the employee was in ~~contravention~~ violation
 12 of law, city policies, or ~~standard operating procedures, or is~~
 13 ~~sufficient to show that the employee is unsuitable or unfit for~~
 14 ~~employment~~ department rules not in conflict with any collective
 15 bargaining agreement or law. For purposes of this chapter,
 16 the city shall establish each element of the charges specified
 17 under section 400.22 by a preponderance of the evidence. The
 18 city shall have the burden to prove that the punishment imposed
 19 upon the employee is proportionate, reasonable, and just in
 20 the totality of the circumstances under the factors provided in
 21 section 400.27, subsection 1, paragraph "b".

22 Sec. 4. Section 400.19, Code 2025, is amended to read as
 23 follows:

24 **400.19 Removal** ~~Peremptory removal, discharge, demotion, or~~
 25 **suspension of subordinates.**

26 The person having the appointing power as provided in this
 27 chapter, or the chief of police or chief of the fire department,
 28 may, upon presentation of reasonable and just grounds for such
 29 action to the subordinate in writing, peremptorily remove,
 30 discharge, demote, or suspend a subordinate then under the
 31 person's or chief's direction due to any act or failure to
 32 act by the employee that is in ~~contravention~~ violation of law,
 33 city policies, or ~~standard operating procedures, or that in~~
 34 ~~the judgment of the person or chief~~ department rules, and is
 35 ~~sufficient~~ deemed reasonably anticipated to be detrimental to

1 ~~show that the employee is unsuitable or unfit for employment~~
2 public. This section shall not be construed to modify the
3 rights, requirements, or procedures provided in section 400.8A or
4 other rights, requirements, or procedures provided by law.

5 Sec. 5. NEW SECTION. 400.22A Exculpatory evidence.

6 A person shall not knowingly withhold exculpatory evidence
7 from an employee subject to a written specification of charges
8 filed under section 400.22.

9 Sec. 6. Section 400.23, Code 2025, is amended to read as
10 follows:

11 **400.23 Time and place of hearing.**

12 Within ten days after such specifications are filed, the
13 commission shall fix the time for a hearing, which shall be not
14 less than five nor more than twenty days thereafter, and the
15 place for hearing the appeal and. The commission shall notify
16 the parties in writing of the time and place so fixed, and the
17 notice shall contain a copy of the specifications so filed.
18 Hearings under this section shall be held during normal city
19 business hours unless otherwise agreed to by the parties and
20 the commission. The commission in its discretion may grant a
21 continuance or stay of a hearing upon request.

22 Sec. 7. Section 400.24, Code 2025, is amended to read as
23 follows:

24 **400.24 Oaths — books and papers — procedures.**

25 1. The presiding officer of the commission or the council,
26 as the case may be, shall have power to administer oaths in the
27 same manner and with like effect and under the same penalties
28 as in the case of magistrates exercising criminal or civil
29 jurisdiction.

30 2. The council or commission shall cause subpoenas to be
31 issued for such witnesses and the production of such books and
32 papers as either party may designate. Issuance of subpoenas
33 shall be consistent with the Iowa rules of civil procedure. The
34 subpoenas shall be signed by the chairperson of the commission or
35 mayor, as the case may be, or by an attorney representing a party

1 before the commission. The council or commission shall provide
2 a copy of each subpoena to both parties upon issuance. A party,
3 or an attorney representing a party, shall provide copies of any
4 material produced in response to a subpoena to the opposing party
5 upon receipt of such material.

6 3. Those employees who are defined as an "officer" under
7 section 80F.1, subsection 1, paragraph "f", shall have the
8 right to request documents, records, and any other evidence
9 in the possession of the appointing authority relevant to the
10 determination of cause and proportionality of discipline not
11 otherwise in violation of chapter 80F.

12 Sec. 8. Section 400.26, Code 2025, is amended to read as
13 follows:

14 **400.26 Public trial.**

15 The trial of all appeals shall be public, and the parties
16 may be represented by counsel or by the parties' authorized
17 collective bargaining representative. However, upon the request
18 of the employee, the deliberations of the commission in a city
19 with a population of less than two hundred thousand shall be held
20 in closed session.

21 Sec. 9. Section 400.27, subsections 1, 2, and 3, Code 2025,
22 are amended to read as follows:

23 1. a. The civil service commission has jurisdiction to hear
24 and determine matters involving the rights of civil service
25 employees under this chapter, and may affirm, modify, or reverse
26 any case on its merits.

27 b. If the commission determines that the city proved the
28 employee committed the charge as specified, the commission
29 shall determine whether the removal, discharge, demotion, or
30 suspension of the employee was with just cause based upon
31 the totality of the circumstances. For the purposes of this
32 subsection, the commission shall consider factors including
33 the nature of the conduct at issue in the circumstances, the
34 proportionality of the punishment to the conduct at issue,
35 the employee's work history, whether the employee reasonably

1 could comply with the policy or rule in the circumstances and
2 whether the employee's conduct was objectively reasonable in
3 the circumstances, the employee's defenses or justifications,
4 any mitigating or aggravating factors, whether the punishment
5 is reasonably calculated to correct the employee's behavior or
6 conduct, if the punishment is necessary to protect the public
7 interest, whether the city, its employees, or the appointing
8 authority acted in accordance with the law, city policies,
9 department rules, or standard operating procedures, or if the
10 policy failed in the circumstances. The commission shall only
11 consider, order, or impose discipline upon the employee for
12 charges proven by the city.

13 c. The commission shall reverse the city's decision and
14 dismiss a specific charge with prejudice if the city fails to
15 meet its burden of proof as to that charge.

16 d. The final decision of the commission shall be based upon
17 a majority vote of the commission, shall be made in writing, and
18 shall include findings of fact and conclusions relied upon, and
19 reasoning or rationale for the decision, separately stated. The
20 commission shall render and serve its final decision upon the
21 parties by certified mail within thirty days of the close of the
22 record or trial unless the parties consent to a later date in
23 writing or on the record. The final decision may be served upon
24 an employee by electronic mail with the consent of the employee.

25 2. a. The Except as otherwise provided in this section,
26 the city attorney or solicitor shall be the attorney for the
27 commission or when requested by the commission shall present
28 matters concerning civil service employees to the commission,
29 except the commission may hire a counselor or an attorney on
30 a per diem basis to represent it when in the opinion of the
31 commission there is a conflict of interest between the commission
32 and the city council. The counselor or attorney hired by the
33 commission shall not be the city attorney or solicitor. The city
34 shall pay the costs incurred by the commission in employing an
35 attorney under this section.

1 b. Upon the filing of a notice of appeal pursuant to section
2 400.21, a city attorney, assistant city attorney, or solicitor
3 who represents or has represented the commission shall not
4 represent the city or its officers or employees in an appeal
5 pending before the commission unless the employee waives the
6 conflict of interest in writing or on the record. If the
7 commission is required to hire a counselor or attorney that
8 is not a city attorney, assistant city attorney, or solicitor
9 as provided in this subsection, the city shall pay the costs
10 incurred by the commission in employing a counselor or attorney
11 under this section, and the commission shall independently seek
12 and retain such an attorney.

13 c. A counselor or attorney who represents the commission in
14 an appeal before the commission shall be fair and impartial
15 toward the parties. The counselor or attorney representing the
16 commission may provide advice and counsel to the commission on
17 matters before it and assist the commission with its proceedings
18 and trial as may be necessary or requested.

19 3. The city or any civil service employee shall have a right
20 to appeal to the district court from the final ruling or decision
21 of the civil service commission. The appeal shall be taken
22 within thirty days from the filing service of the formal decision
23 of the commission. The district court of the county in which the
24 city is located shall have full jurisdiction of the appeal. The
25 scope of review for the appeal shall be limited to a trial de
26 novo appellate review without a trial or additional evidence.

27 Sec. 10. Section 400.27, Code 2025, is amended by adding the
28 following new subsections:

29 NEW SUBSECTION. 2A. The commission shall provide for the
30 production of evidence and exchange of exhibits in advance of
31 trial. The city shall mark its exhibits with numbers. The
32 employee shall mark its exhibits with letters.

33 NEW SUBSECTION. 6. In addition to any other remedies and
34 relief, upon application, the district court may award reasonable
35 attorney fees, expert fees, and costs to those employees who

1 are defined as an "officer" under section 80F.1, subsection 1,
2 paragraph "f", and only when such employee meets any of the
3 following criteria:

4 a. The employee is fully reinstated from a termination
5 without discipline imposed.

6 b. The employee's suspension has been reduced by over fifty
7 percent.

8 c. The employee's demotion was reversed.

9 Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate
10 importance, takes effect upon enactment.

11 EXPLANATION

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

14 This bill relates to city civil service.

15 The bill prohibits a city with a civil service commission
16 established under Code chapter 400 from adopting, enforcing,
17 or otherwise administering an ordinance, motion, resolution, or
18 amendment, or using any other means, to establish a board or
19 other entity for the purpose of citizen review of the conduct of
20 officers as defined by the bill.

21 The bill strikes language authorizing a city council
22 to establish, by ordinance, the number of civil service
23 commissioners at not less than three in a city having a
24 population of more than 70,000. The bill requires a city council
25 in a city having a population of more than 50,000 to establish,
26 by ordinance, the number of civil service commissioners at not
27 less than five and not more than seven.

28 The bill modifies standards and procedures for the removal,
29 discharge, demotion, or suspension of a city civil service
30 employee. The bill modifies standards and procedures for
31 appeals of such actions to a city civil service commission,
32 including procedures and standards for hearings on such appeals
33 and procedures applicable before such hearings are held. The
34 bill also modifies standards and procedures for appeal of such
35 decisions by a city civil service commission to the district

1 court, including modifying the applicable scope of review and
2 providing for reasonable attorney fees, expert fees, and costs
3 and expenses to be awarded to a city civil service employee who
4 substantially prevails in such an appeal.

5 The bill takes effect upon enactment.

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