

House File 797 - Reprinted

HOUSE FILE 797
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 268)

(As Amended and Passed by the House March 11, 2021)

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 determined to be ineligible pursuant to
19 section 400.18 or 400.19, or other comparable process. Upon
20 determination of ineligibility pursuant to this paragraph,
21 the person's entitlement to a disability benefit under this
22 chapter shall terminate and any disability retirement allowance
23 received by such a person must be returned to the system
24 together with interest earned on the disability retirement
25 allowance calculated at a rate determined by the system.
26 However, the determination of ineligibility as provided under
27 this paragraph may be waived for good cause as determined by
28 the board. The burden of establishing good cause is on the
29 person who received the disability retirement allowance.

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

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

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

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

28 **411.15 Hospitalization and medical attention.**

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

34 b. Cities shall continue to provide hospital, nursing, and
 35 medical attention for injuries or diseases incurred while in

1 the performance of their duties or arising out of and in the
2 course of the employment for members or beneficiaries receiving
3 a retirement allowance under section 411.6, ~~subsection 6.~~

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

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

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

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

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

1 of the injury or disease.

2 c. An action to require the city to provide the cost of
3 the hospital, nursing, and medical attention required by this
4 section for a disease as defined in section 411.6, subsection
5 5, shall not be maintained unless the action is commenced
6 within five years from the last date of employment of the
7 member. All other actions to require the city to provide the
8 cost of hospital, nursing, and medical attention required by
9 this section shall not be maintained unless the action is
10 commenced before the later of any of the following:

11 (1) Two years from the date of the occurrence of the injury
12 or disease.

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