

House File 687 - Reprinted

HOUSE FILE 687

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 237)

(COMPANION TO SF 505 BY

COMMITTEE ON STATE GOVERNMENT)

(As Amended and Passed by the House April 19, 2023)

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

27 *b.* If a member in service or the chief of the police or
 28 fire departments becomes incapacitated for duty as a natural
 29 or proximate result of an injury or disease incurred in or
 30 aggravated by the actual performance of duty ~~at some definite~~
 31 ~~time or place~~ or arising out of or in the course of the
 32 employment, or while acting, pursuant to order, outside the
 33 city by which the member is regularly employed, the member,
 34 upon being found to be temporarily incapacitated following a
 35 medical examination as directed by the city, is entitled to

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

15 Sec. 5. Section 411.6, subsection 5, Code 2023, is amended
16 by adding the following new paragraph:

17 NEW PARAGRAPH. *od.* To establish that a mental incapacity
18 occurred as the natural and proximate result of an injury or
19 disease incurred in or aggravated by the actual performance of
20 duty or arising out of and in the course of the employment, or
21 while acting pursuant to order outside of the city by which the
22 member is regularly employed, the member must demonstrate that
23 the mental incapacity is traceable to a readily identifiable
24 work event constituting a manifest happening of a sudden
25 traumatic nature from an unexpected cause or unusual strain in
26 the workplace. Whether an incident is traumatic, unexpected,
27 or unusual is determined by comparing the incident, and not
28 the effect on the member, to the experiences of other police
29 officers or fire fighters in Iowa. A member must be able to
30 trace their mental injury to a specific event or events in the
31 workplace to be eligible for accidental disability benefits.

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

34 NEW PARAGRAPH. *d.* (1) Upon a determination on or after
35 July 1, 2023, that an ordinary disability beneficiary is

1 entitled to a retirement for accidental disability, the
2 beneficiary shall receive an accidental disability retirement
3 allowance which shall consist of a pension in an amount that is
4 equal to the greater of sixty percent of the member's average
5 final compensation or the retirement allowance that the member
6 would receive under subsection 2 if the member had attained
7 fifty-five years of age, or an amount equal to the ordinary
8 disability retirement allowance previously received by the
9 beneficiary, whichever is greater.

10 (2) An accidental disability allowance under this paragraph
11 shall commence effective the first day of the first month
12 following the determination that the ordinary disability
13 beneficiary is entitled to a retirement for accidental
14 disability.

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

17 (1) If, upon the receipt of evidence and proof from the
18 chief of the police or fire department that the death of a
19 member in service was the natural and proximate result of an
20 injury or disease incurred in or aggravated by the actual
21 performance of duty at some definite time and place or arising
22 out of and in the course of the employment, or while acting
23 pursuant to order, outside of the city by which the member is
24 regularly employed, the system decides that death was so caused
25 in the performance of duty, there shall be paid, in lieu of the
26 ordinary death benefit provided in subsection 8, an accidental
27 death benefit as set forth in this subsection.

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

30 NEW PARAGRAPH. d. A person otherwise eligible to receive
31 an ordinary or accidental disability retirement benefit under
32 this chapter shall not be eligible to receive such a benefit
33 if the person is subsequently removed, discharged, demoted,
34 or suspended pursuant to section 400.18 or 400.19, or other
35 comparable process. Upon determination of ineligibility

1 pursuant to this paragraph, the person's entitlement to a
 2 disability benefit under this chapter shall terminate and any
 3 disability retirement allowance received by such a person must
 4 be returned to the system together with interest earned on the
 5 disability retirement allowance calculated at a rate determined
 6 by the system. However, the determination of ineligibility
 7 as provided under this paragraph may be waived for good cause
 8 as determined by the board. The burden of establishing good
 9 cause is on the person who received the disability retirement
 10 allowance.

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

13 (8) Beginning July 1, 1996, and each fiscal year thereafter,
 14 an amount equal to the member's contribution rate times each
 15 member's compensation shall be paid to the fund from the
 16 earnable compensation of the member. For the purposes of this
 17 subparagraph, the member's contribution rate shall be nine and
 18 thirty-five hundredths percent ~~or, beginning July 1, until June~~
 19 30, 2009, nine and four-tenths percent until June 30, 2023,
 20 and, beginning July 1, 2023, nine and sixty-four hundredths
 21 percent. However, the system shall increase the member's
 22 contribution rate as necessary to cover any increase in cost
 23 to the system resulting from statutory changes which are
 24 enacted by any session of the general assembly meeting after
 25 January 1, 1991, if the increase cannot be absorbed within
 26 the contribution rates otherwise established pursuant to this
 27 paragraph, but subject to a maximum employee contribution rate
 28 of eleven and three-tenths percent or, beginning July 1, 2009,
 29 eleven and thirty-five hundredths percent. The contribution
 30 rate increases specified in 1994 Iowa Acts, ch. 1183, pursuant
 31 to [this chapter](#) and [chapter 97A](#) shall be the only member
 32 contribution rate increases for these systems resulting from
 33 the statutory changes enacted in 1994 Iowa Acts, ch. 1183, and
 34 shall apply only to the fiscal periods specified in 1994 Iowa
 35 Acts, ch. 1183. After the employee contribution reaches eleven

1 and three-tenths percent or eleven and thirty-five hundredths
2 percent, as applicable, sixty percent of the additional cost
3 of such statutory changes shall be paid by employers under
4 paragraph "c" and forty percent of the additional cost shall be
5 paid by employees under this paragraph.

6 Sec. 10. Section 411.15, Code 2023, is amended to read as
7 follows:

8 **411.15 Hospitalization and medical attention.**

9 1. a. Cities shall provide hospital, nursing, and medical
10 attention for the members of the police and fire departments
11 of the cities, when injured while in the performance of their
12 duties as members of such department, ~~and~~ or for injuries and
13 diseases arising out of and in the course of the employment.

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

19 c. Disease under this subsection shall mean heart disease
20 or any disease of the lungs or respiratory tract and shall be
21 presumed to have been contracted while on active duty as a
22 result of strain or the inhalation of noxious fumes, poison, or
23 gases. Disease under this subsection shall also mean cancer
24 or infectious disease, both as defined in section 411.1, and
25 shall be presumed to have been contracted while on active duty
26 as a result of that duty.

27 2. a. Cities may fund the cost of the hospital, nursing,
28 and medical attention required by ~~this section~~ through the
29 purchase of insurance, by self-insuring the obligation, or
30 through payment of moneys into a local government risk pool
31 established for the purpose of covering the costs associated
32 with the requirements of ~~this section~~. ~~However, the cost of~~
33 ~~the hospital, nursing, and medical attention required by this~~
34 ~~section shall not be funded through an employee-paid health~~
35 ~~insurance policy.~~

1 b. A member or beneficiary shall not be required to pay the
2 cost of the hospital, nursing, and medical attention required
3 by this section, including but not limited to any costs
4 or premiums associated with any insurance policy providing
5 coverage for the hospital, nursing, and medical attention.

6 c. The cost of the hospital, nursing, and medical attention
7 required by this section shall be paid from moneys held in a
8 trust and agency fund established pursuant to section 384.6,
9 or out of the appropriation for the department to which the
10 injured person belongs or belonged; provided that any amounts
11 received by the injured person from any other source for such
12 specific purposes, shall be deducted from the amount paid by
13 the city under the provisions of this section.

14 3. a. For purposes of this subsection, "date of the
15 occurrence of the injury or disease" means the date that the
16 member or beneficiary knew or should have known that the injury
17 or disease was work-related.

18 b. To be provided the cost of the hospital, nursing, and
19 medical attention required by this section, the city or the
20 city's representative shall have actual knowledge of the
21 occurrence of an injury or disease or be provided notice of the
22 occurrence of an injury or disease on behalf of a member or
23 beneficiary within ninety days from the date of the occurrence
24 of the injury or disease.

25 c. (1) Except as provided in subparagraph (2), an action
26 to require the city to provide the cost of hospital, nursing,
27 and medical attention required by this section shall not be
28 maintained unless the action is commenced before the later of
29 any of the following:

30 (a) Two years from the date of the occurrence of the injury
31 or disease.

32 (b) Two years from the date the city denies a claim to
33 provide hospital, nursing, and medical attention required by
34 this section.

35 (2) A city shall not be responsible for any claim or action

H.F. 687

1 for a newly discovered work-related injury arising under this
2 chapter which is filed after three years from the last date of
3 employment of the member.