HOUSE FILE 797
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 268)

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

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

An Act relating to benefits concerning members of the municipal fire and police retirement system.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

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

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

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

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

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

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

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

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

NEW PARAGRAPH. *0d.* Disease under this subsection shall also mean any incapacitating mental disorder arising out of and in the course of the employment, or while acting, pursuant to order, outside the city by which the member is regularly employed. A disease shall qualify as an incapacitating mental disorder irrespective of the absence of similar effects on other members.

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

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

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

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

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

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

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

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

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

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

subparagraph, the member's contribution rate shall be nine and thirty-five hundredths percent ~~or, beginning July 1, 2009~~ until June 30, 2009, nine and four-tenths percent until June 30, 2021, and, beginning July 1, 2021, nine and fifty-five hundredths percent. However, the system shall increase the member's contribution rate as necessary to cover any increase in cost to the system resulting from statutory changes which are enacted by any session of the general assembly meeting after January 1, 1991, if the increase cannot be absorbed within the contribution rates otherwise established pursuant to this paragraph, but subject to a maximum employee contribution rate of eleven and three-tenths percent or, beginning July 1, 2009, eleven and thirty-five hundredths percent. The contribution rate increases specified in 1994 Iowa Acts, ch. 1183, pursuant to this chapter and chapter 97A shall be the only member contribution rate increases for these systems resulting from the statutory changes enacted in 1994 Iowa Acts, ch. 1183, and shall apply only to the fiscal periods specified in 1994 Iowa Acts, ch. 1183. After the employee contribution reaches eleven and three-tenths percent or eleven and thirty-five hundredths percent, as applicable, sixty percent of the additional cost of such statutory changes shall be paid by employers under paragraph "*c*" and forty percent of the additional cost shall be paid by employees under this paragraph.

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

411.15 Hospitalization and medical attention.

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

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

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

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

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

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

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

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

of the injury or disease.

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

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

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