

Sec. 7. Section 352.11, subsection 1, Code 1993, is amended to read as follows:

1. NUISANCE RESTRICTION.

a. A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. The subsection This paragraph shall apply to a farm operation conducted within an agricultural area for six years following the exclusion of land within an agricultural area other than by withdrawal as provided in section 352.9.

b. Paragraph "a" does not apply to a nuisance which is the result of a farm operation determined to be in violation of a federal statute or regulation or state statute or rule. Paragraph "a" does not apply if the nuisance results from the negligent operation of the farm or farm operation. This subsection Paragraph "a" does not apply to actions or proceedings arising from injury or damage to a person or property caused by the farm or a farm operation before the creation of the agricultural area. This subsection Paragraph "a" does not affect or defeat the right of a person to recover damages for an injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land, unless the injury or damage is caused by an act of God.

c. A person shall not bring an action or proceeding based on a claim of nuisance arising from a farm operation unless the person proceeds with mediation as provided in chapter 654B.

d. If a defendant is a prevailing party in an action or proceeding based on a claim of nuisance and arising from a farm operation conducted on farmland within an agricultural area, the plaintiff shall pay court costs and reasonable attorney fees incurred by the defendant, if the court determines that the claim is frivolous.

Approved May 20, 1993

CHAPTER 147
CITY CIVIL SERVICE
S.F. 163

AN ACT relating to abolition of certain civil service commissions, use of electronic voice recording devices at civil service meetings, and relating to qualifications and requirements for appointment, promotion, or employment in positions governed by civil service.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 400.5, Code 1993, is amended to read as follows:

400.5 ROOMS AND SUPPLIES.

The council shall provide suitable rooms in which the commission may hold its meetings and supply the commission with all necessary equipment and a qualified shorthand reporter or an electronic voice recording device to enable it to properly to perform its duties.

Sec. 2. Section 400.8, subsection 1, Code 1993, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examinations shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. ~~However, the~~ The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held under the direction of and

as specified in accordance with medical protocols established by the ~~boards~~ board of trustees of the fire or police retirement systems system established by section 411.5 and the. The commission ~~may~~ shall conduct a medical examination of an applicant for the position of police officer, police matron, or fire fighter after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 3. Section 400.11, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~In cities of fifty thousand or more population, the~~ The commission shall ~~may~~ hold in reserve a ~~second list, for original appointments and for promotions, additional lists of the ten persons each next highest in standing, in order of their grade, or such number as may qualify and, thereafter, if less than ten.~~ If the list of ten persons provided in the first paragraph hereof ~~be is~~ exhausted within one year, the commission may certify such ~~second list~~ additional lists of ten persons each, in order of their standing, to the council as eligible for appointment to fill such vacancies as may exist. ~~However, for original appointments only, no more than four lists of ten persons each shall be certified for each one-year period of eligibility.~~

Sec. 4. Section 400.17, unnumbered paragraph 1, and subsections 1 through 3, Code 1993, are amended to read as follows:

Except as otherwise provided in section 400.7, a person shall not be appointed, promoted, or employed in any capacity, including a new classification, in the fire or police department, or any department which is governed by the civil service, until the person has passed a civil service examination as provided in this chapter, and has been certified to the city council as being eligible for the appointment. However, in an emergency in which the peace and order of the city is threatened by reason of fire, flood, storm, or mob violence, making additional protection of life and property necessary, the person having the appointing power may deputize additional persons, without examination, to act as peace officers until the emergency has passed. A person may be appointed to a position subject to successfully completing a civil service medical examination. A person shall not be appointed or employed in any capacity in the fire or police department, ~~or any department which is governed by civil service, unless the person:~~

1. Is of good moral character.
2. Is able to read and write the English language.
3. Is not a liquor or drug addict if the person is unable to meet reasonable physical condition training requirements and reasonable level of experience requirements necessary for the performance of the position; if the person is a habitual criminal; if the person is addicted to narcotics or alcohol and has not been rehabilitated for a period of one year or more, or is not presently undergoing treatment; or if the person has attempted a deception or fraud in connection with a civil service examination.

Sec. 5. Section 400.17, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Except as otherwise provided in this section and section 400.7, a person shall not be appointed or employed in any capacity in any department which is governed by civil service if the person is unable to meet reasonable physical condition training requirements and reasonable level of experience requirements necessary for the performance of the position; if the person is addicted to narcotics or alcohol and has not been rehabilitated for a period of one year or more, or is not presently undergoing treatment; or if the person has attempted a deception or fraud in connection with a civil service examination.

Sec. 6. TRANSITION. Notwithstanding section 4* of this Act, if a list for promotion is certified between July 1, 1992, and June 30, 1993, and is not exhausted within one year, the

*Section 3 probably intended

commission shall certify an additional list of ten persons in order of their standing as of the date of certification of the initial list in anticipation of additional vacancies for the eligibility period. This additional list shall be certified to the council as eligible for appointment to fill such vacancies as may exist.

Approved May 20, 1993

CHAPTER 148
DUTIES OF COUNTY RECORDER AND AUDITOR
S.F. 165

AN ACT relating to the duties of the county recorder and auditor.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 331.502, subsection 49, Code 1993, is amended to read as follows:

49. Carry out other duties required by law and duties assigned pursuant to section 331.323 or 331.610.

Sec. 2. **NEW SECTION.** 331.610 ABOLITION OF OFFICE — TRANSFER OF DUTIES.

If the office of county recorder is abolished in a county, the duties prescribed by law to the office of recorder relating to the filing or recording of instruments affecting real estate shall be performed by the county auditor.

Approved May 20, 1993

CHAPTER 149
OPEN ENROLLMENT PROCEDURES AND REPORTS
S.F. 205

AN ACT relating to open enrollment procedures and reports.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 282.18, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 2. 1989 Iowa Acts, chapter 12, section 2, is amended to read as follows:

SEC. 2. THREE-YEAR REPORT ON OPEN ENROLLMENT. The department of education shall conduct a three-year study of the implementation of open enrollment in the state. The study shall include, but not be limited to, a comparison of graduation rates before and after the effective date of this Act; a demographic study of the use of the open enrollment option relating to the number of students using the open enrollment option, the effect of open enrollment on staffing patterns and curricular offerings; the effect of open enrollment on district ability to comply with desegregation orders or plans and minimum school standards, and the effect of open enrollment on the actual student populations within affected districts; and the effect of open enrollment on student participation in interscholastic athletics; and the average number of school days missed by open enrollment participants. The data collected, together with any conclusions, shall be submitted in annual reports to the general assembly until and including the general assembly which meets in 1993.

Approved May 20, 1993