

FILED MAR 7 2005

SENATE FILE 287
BY WARNSTADT

STATE GOVERNMENT

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act concerning the subrogation rights for a city under the
2 statewide fire and police retirement system.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 287
STATE GOVERNMENT

1 Section 1. Section 411.22, subsection 1, unnumbered
2 paragraph 1, Code 2005, is amended to read as follows:

3 If a member receives an injury or dies for which benefits
4 are payable under section 411.6, subsection 3, 5, 8, or 9, or
5 ~~section-411.15~~, and if the injury or death is caused under
6 circumstances creating a legal liability for damages against a
7 third party other than the retirement system, the retirement
8 system is subrogated to the rights of the member or the
9 member's beneficiary entitled to receive a death benefit and
10 may maintain an action for damages against the third party for
11 lost earnings and lost earnings capacity. If the retirement
12 system recovers damages in the action, the court shall enter
13 judgment for distribution of the recovery as follows:

14 Sec. 2. Section 411.22, subsection 1, paragraph d, Code
15 2005, is amended to read as follows:

16 d. A sum sufficient to repay a city for payments made by
17 the city under section 411.15, if applicable.

18 ~~d.~~ e. Any balance remaining after the repayments provided
19 by paragraphs "a" through "e" "d" shall be paid to the injured
20 member, or the beneficiary under section 411.6, subsection 8
21 or 9, whichever is applicable.

22 Sec. 3. NEW SECTION. 411.22A SUBROGATION -- CITY MEDICAL
23 PAYMENTS.

24 1. If a member receives an injury or dies for which
25 benefits are payable under section 411.15, and if the injury
26 or death is caused under circumstances creating a legal
27 liability for damages against a third party other than the
28 retirement system, the city that is required to make payments
29 under section 411.15 is subrogated to the rights of the member
30 or the member's beneficiary entitled to receive a death
31 benefit and may maintain an action for damages against the
32 third party for the payments required to be made under section
33 411.15. The city may authorize the retirement system to
34 collect the payments required to be made under section 411.15
35 on behalf of the city if the retirement system maintains an

1 action for damages as authorized by section 411.22.

2 2. If the city, after receiving written notice of the
3 third-party liability, declines in writing to maintain an
4 action against the third party or fails to maintain an action
5 within one hundred eighty days of receiving written notice of
6 the third-party liability, the member, the member's estate, or
7 the legal representative of the member or the member's estate,
8 may maintain an action for damages against the third party.
9 If such an action is commenced, the plaintiff member, estate,
10 or representative shall serve a copy of the original notice
11 upon the city not less than ten days before the trial of the
12 action, but a failure to serve the notice does not prejudice
13 the rights of the city, and the city shall be indemnified out
14 of the recovery of damages to the extent of payments made by
15 the city pursuant to section 411.15, with legal interest,
16 except that the plaintiff member's or estate's attorney fees
17 may be first allowed by the district court.

18 3. The city has a lien on the damage claim against the
19 third party and on any judgment on the damage claim for
20 payments made by the city pursuant to section 411.15 or
21 payments for which the city is liable. In order to continue
22 and preserve the lien, the city shall file a notice of the
23 lien within thirty days after receiving a copy of the original
24 notice in the office of the clerk of the district court in
25 which the action is filed.

26 EXPLANATION

27 This bill concerns the subrogation rights of a city to
28 recover payments of medical expenses by the city under the
29 statewide fire and police retirement system.

30 Code section 411.15 requires cities to pay the hospital,
31 nursing, and medical expenses of members of the retirement
32 system who are injured while in the performance of their
33 duties. Under current law, the retirement system is
34 subrogated to the rights of a member or beneficiary against a
35 third party who is legally liable for the injury or death of a

1 member that results in a payment of a retirement benefit by
2 the system or of medical payments under Code section 411.15.
3 This bill provides that a city, and not the retirement system,
4 is subrogated to the rights of the member for injuries that
5 result in the city making payments under Code section 411.15.
6 The bill provides that the city may authorize the retirement
7 system to collect these payments on behalf of the city and
8 provides that payment to the city shall be after the
9 retirement system is repaid but prior to distribution of any
10 recovery to the injured member or beneficiary.

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