

CHAPTER 96

POSTCONVICTION RELIEF ACTION TIME LIMIT

S.F. 253

AN ACT relating to the time within which a postconviction relief action may be brought which arises out of a prison disciplinary proceeding and providing an effective date and an applicability provision.

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

Section 1. Section 663A.3, Code 1989, is amended to read as follows:

663A.3 HOW TO COMMENCE PROCEEDING — LIMITATION.

A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 663A.2, subsection 6, the application shall be filed with the clerk of the district court of the county in which the applicant is being confined within ninety days from the date the disciplinary decision is final. ~~An application~~ All other applications must be filed within three years from the date the conviction or decision is final or, in the event of an appeal, from the date the writ of procedendo is issued. However, this limitation does not apply to a ground of fact or law that could not have been raised within the applicable time period. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general.

Sec. 2. This Act takes effect July 1, 1989, and applies to all final disciplinary decisions entered under section 903A.3 on or after that date. For all final disciplinary decisions entered under section 903A.3 before July 1, 1989, an application seeking relief under section 663A.2, subsection 6, must be filed no later than January 1, 1990.

Approved May 2, 1989

CHAPTER 97

UTILITIES DIVISION COMPLAINTS ELIMINATED

S.F. 260

AN ACT eliminating the ability of utilities division staff to file a complaint with the utilities board alleging that a utility's rates are excessive following an investigation by division staff, a special audit, continuous review of operations, or review of annual reports.

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

Section 1. Section 476.3, subsection 2, Code 1989, is amended to read as follows:

2. If, as a result of a review procedure conducted under section 476.31, a review conducted under section 476.32, a special audit, an investigation by division staff, or an investigation by the consumer advocate, ~~a complaint is filed by division staff, or~~ a petition is filed with the board by the consumer advocate, alleging that a utility's rates are excessive, the disputed amount shall be specified in the ~~complaint or~~ petition. The public utility shall, within the time prescribed by the board, file a bond or undertaking approved by the board conditioned upon the refund in a manner prescribed by the board of amounts collected after the date of filing of the ~~complaint or~~ petition in excess of rates or charges finally determined by the board to be lawful. If

upon hearing the board finds that the utility's rates are unlawful, the board shall order a refund, with interest, of amounts collected after the date of filing of the ~~complaint or~~ petition that are determined to be in excess of the amounts which would have been collected under the rates finally approved. However, the board shall not order a refund that is greater than the amount specified in the ~~complaint or~~ petition, plus interest, and ~~provided that~~ if the board fails to render a decision within ten months following the date of filing of the ~~complaint or~~ petition, the board shall not order a refund of any excess amounts that are collected after the expiration of that ten-month period and prior to the date the decision is rendered.

Sec. 2. Section 476.33, subsection 1, Code 1989, is amended to read as follows:

1. The board shall adopt rules pursuant to chapter 17A to provide for the completion of proceedings under section 476.3 within ten months after the date of the filing of a ~~complaint or~~ petition under section 476.3, subsection 2, and to provide for the completion of proceedings under section 476.6 within ten months after the date of filing of the new or changed rates, charges, schedules, or regulations under that section. These rules shall include reasonable time limitations for the submission or completion of comments and testimony, and exhibits, briefs, and hearings, and may provide for the granting of additional time upon the request of a party to the proceeding or division staff for good cause shown.

Approved May 2, 1989

CHAPTER 98

SECONDARY ROAD RIGHT-OF-WAY ANNEXATION

S.F. 300

AN ACT relating to the annexation of territory including secondary roads.

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

Section 1. Section 368.1, subsection 10, Code 1989, is amended to read as follows:

10. "Territory" means the land area or areas proposed to be incorporated, annexed, or severed, whether or not contiguous to all other areas proposed to be incorporated, annexed, or severed. Except as provided for by an agreement pursuant to chapter 28E, "territory" having a common boundary with the right-of-way of a secondary road extends to the center line of the road.

Sec. 2. Section 368.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Territory within the road right-of-way owned by a county may be annexed, but the county attorney of that county must be served with notice of the hearing and a copy of the proposal.

Sec. 3. **APPLICABILITY.** This Act applies to actions taken pursuant to chapter 368 which commence after the effective date of this Act.

Approved May 2, 1989