

**NEW SUBSECTION. 4. EFFECT OF DETERMINATION.** A finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of the division, administrative law judge, or the employment appeal board, is binding only upon the parties to proceedings brought under this chapter, and is not binding upon any other proceedings or action involving the same facts brought by the same or related parties before the division of labor services, division of industrial services, other state agency, arbitrator, court, or judge of this state or the United States.

Approved April 22, 1991

---

## CHAPTER 44

### REORGANIZED SCHOOL DISTRICTS — CHANGE OF AREA EDUCATION AGENCY *H.F. 334*

**AN ACT** to permit districts which reorganize to change the area education agency which will provide services to students in the new or enlarged district.

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

Section 1. Section 275.27, Code 1991, is amended to read as follows:

275.27 COMMUNITY SCHOOL DISTRICTS — PART OF AREA EDUCATION AGENCY.

School districts created or enlarged under this chapter are community school districts and are part of the area education agency in which the greatest number of qualified electors of the district reside at the time of the special election called for in section 275.18, and sections of the Code applicable to the common schools generally are applicable to these districts in addition to the powers and privileges conferred by this chapter. If a school district, created or enlarged under this chapter and assigned to an area education agency under this section, can demonstrate that students in the district were utilizing a service or program prior to the formation of the new or enlarged district that is unavailable from the area education agency to which the new or enlarged district is assigned, the district may be reassigned to the area education agency, which formerly provided the service or program, upon an affirmative majority vote of the boards of the affected area education agencies to permit the change.

Approved April 22, 1991

---

## CHAPTER 45

### EMPLOYMENT SECURITY LAW REVISIONS *H.F. 459*

**AN ACT** relating to the administration of the employment security law by the division of job service of the department of employment services and providing an effective date.

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

Section 1. Section 96.4, subsection 3, Code 1991, is amended to read as follows:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while

employed at the individual's regular job, as defined in section 96.19, subsection 9, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 9, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "i".

Sec. 2. Section 96.4, subsection 6, paragraph b, unnumbered paragraph 2, Code 1991, is amended to read as follows:

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. sec. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly benefit amount wage.

Sec. 3. Section 96.5, subsection 1, paragraph b, Code 1991, is amended by striking the paragraph.

Sec. 4. Section 96.5, subsection 10, Code 1991, is amended to read as follows:

10. ALIENS – DISQUALIFIED. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

Sec. 5. Section 96.7, subsection 9, paragraph a, Code 1991, is amended to read as follows:

a. The amount of the bond or deposit shall be equal to two and seven-tenths percent of the nonprofit organization's total taxable wages paid for employment during the four calendar quarters immediately preceding the effective date of the election, or the renewal date of a bond or a deposit of money or securities during the calendar year immediately preceding the annual review date as determined by the division, whichever date is most recent and applicable. If the nonprofit organization did not pay wages in each of the four calendar quarters, the amount of the bond or deposit shall be determined by the division.

Sec. 6. Section 96.8, subsection 5, Code 1991, is amended to read as follows:

5. Liability of certain employers. Employers who by election or determination of the division of job service are liable for payments in lieu of contributions shall not be relieved of any regular benefit charges or extended benefit charges by any provision of this chapter, except for those charges which are determined to be incorrect because of an error by the division of job service.

Sec. 7. Section 96.9, subsection 4, paragraph a, Code 1991, is amended to read as follows:

a. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. Such money may be requisitioned pursuant to subsection 3 of this section for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter but only pursuant to a specific appropriation by the legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which (1) specifies the purposes for which such money is appropriated and the amounts

appropriated therefor, (2) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and (3) limits the amount which may be obligated during a twelve-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act during the same twelve-month period and the thirty-four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this state during such thirty-five twelve-month periods transferred to the account of this state pursuant to section 903 of the Social Security Act exceeds the aggregate of the amounts used by this state pursuant to this chapter and charged against the amounts transferred to the account of this state during the same twelve-month period. For purposes of this subsection, amounts used by this state for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into. The use of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States secretary of labor.

Sec. 8. Section 96.9, subsection 4, paragraph b, Code 1991, is amended by striking the subsection.

Sec. 9. Section 96.11, Code 1991, is amended by adding the following new subsection:  
NEW SUBSECTION. 16. The division shall include in the amount set off in accordance with section 421.17, subsection 29 for the collection of an overpayment created pursuant to section 96.3, subsection 7, or section 96.16, subsection 4, an additional amount for the reimbursement of setoff costs incurred by the department of revenue and finance.

Sec. 10. Section 96.13, subsection 3, paragraph a, unnumbered paragraph 3, Code 1991, is amended to read as follows:

Balances to the credit of the fund shall not lapse at any time but shall continuously be available to the division of job service for expenditures consistent with this subsection. However, the division shall not expend more than fifty thousand dollars from the fund in a state fiscal year beginning July 1 and ending June 30. After the end of a state fiscal year the treasurer of state shall promptly transfer the entire amount of the fund in excess of that portion of the fifty thousand dollars, which the division has expended or obligated for the preceding state fiscal year, to the temporary emergency surcharge fund, but if the treasurer of state determines that the division does not have and will not on September 30 have an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, the treasurer of state shall instead promptly transfer the entire excess amount to the unemployment trust fund established in section 96.9. Moneys remaining in the fund at the end of each fiscal year shall not revert to any fund and shall remain in the fund.

Sec. 11. Section 96.14, subsection 2, unnumbered paragraph 5, Code 1991, is amended to read as follows:

A penalty shall not be less than ten dollars for each the first delinquent report or each the first insufficient report not made sufficient within thirty days after a request to do so. The penalty shall not be less than twenty-five dollars for the second delinquent or insufficient report, and not less than fifty dollars for each delinquent or insufficient report thereafter, until four consecutive calendar quarters of reports are timely and sufficiently filed. Interest, penalties, and cost shall be collected by the division in the same manner as provided by this chapter for contributions.

Sec. 12. Sections 7 and 8 of this Act take effect October 1, 1991.

Approved April 22, 1991