

CHAPTER 86

IOWA BATTLE FLAG COLLECTION

H.F. 352

AN ACT relating to the administration and care of the Iowa battle flag collection.

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

Section 1. Section 303.2, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Administer, preserve, and interpret the battle flag collection assembled by the state in consultation and coordination with the department¹ of veterans affairs and the department of general services. A portion of the battle flag collection shall be on display at the state capitol and the state historical building at all times, unless on loan approved by the department of cultural affairs.

Approved April 26, 2001

CHAPTER 87WORKERS' COMPENSATION AND OTHER LIABILITY —
MISCELLANEOUS CHANGES

H.F. 356

AN ACT relating to administrative and corrective changes to the workers' compensation law and providing an effective date and retroactive applicability.

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

Section 1. Section 85.1A, Code 2001, is amended to read as follows:

85.1A PROPRIETORS, LIMITED LIABILITY COMPANY MEMBERS, LIMITED LIABILITY PARTNERS, AND PARTNERS.

A proprietor, limited liability company member, limited liability partner, or partner who is actively engaged in the proprietor's, limited liability company member's, limited liability partner's, or partner's business on a substantially full-time basis, may elect to be covered by the workers' compensation law of this state by purchasing valid workers' compensation insurance specifically including the proprietor, limited liability company member, limited liability partner, or partner. The election constitutes an assumption by the employer of workers' compensation liability for the proprietor, limited liability company member, limited liability partner, or partner for the time period in which the insurance contract is in force. The proprietor, limited liability company member, limited liability partner, or partner shall accept compensation in the manner provided by the workers' compensation law and the employer is relieved from any other liability for recovery of damages, or other compensation for injury.

Sec. 2. Section 85.27, unnumbered paragraph 3, Code 2001, is amended to read as follows:

Notwithstanding section 85.26, subsection 4, charges believed to be excessive or unnecessary may be referred by the employer, insurance carrier, or health service provider to the workers' compensation commissioner for determination, and the commissioner may utilize the procedures provided in sections 86.38 and 86.39, or set by rule, and conduct such inquiry

¹ State "commission" of veterans affairs probably intended

as the commissioner deems necessary. Any health service provider charges not in dispute shall be paid directly to the health service provider prior to utilization of procedures provided in sections 86.38 and 86.39 or set by rule. A health service provider rendering treatment to an employee whose injury is compensable under this section agrees to be bound by such charges as allowed by the workers' compensation commissioner and shall not recover in law or equity any amount in excess of charges set by the commissioner. When a dispute under chapter 85, 85A, or 85B regarding reasonableness of a fee for medical services arises between a health service provider and an employer or insurance carrier, the health service provider, employer, or insurance carrier shall not seek payment from the injured employee.

Sec. 3. Section 85.35, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The parties to a contested case, or persons who are involved in a dispute which could culminate in a contested case may enter into a settlement of any claim arising under this chapter or chapter 85A, 85B, or 86, providing for final disposition of the claim, provided that no final disposition affecting rights to future benefits may be had when the only dispute is the degree of disability resulting from an injury for which an award for payments or agreement for settlement under section 86.13 has been made. The settlement shall be in writing and submitted to the workers' compensation commissioner for approval.

The parties may agree that settlement proceeds, which are paid in a lump sum, are intended to compensate the injured worker at a given monthly or weekly rate over the life expectancy of the injured worker. If such an agreement is reached, neither the weekly compensation rate which either has been paid, or should have been paid, throughout the case, nor the maximum statutory weekly rate applicable to the injury shall apply. Instead, the rate set forth in the settlement agreement shall be the rate for the case.

PARAGRAPH DIVIDED. The settlement shall not be approved unless evidence of a bona fide dispute exists concerning any of the following:

Sec. 4. Section 85.36, subsection 10, Code 2001, is amended to read as follows:

10. If a wage, or method of calculating a wage, is used for the basis of the payment of a workers' compensation insurance premium for a proprietor, partner, limited liability company member, limited liability partner, or officer of a corporation, the wage or the method of calculating the wage is determinative for purposes of computing the proprietor's, partner's, limited liability company member's, limited liability partner's, or officer's weekly workers' compensation benefit rate.

Sec. 5. Section 85.61, subsection 11, unnumbered paragraph 1, Code 2001, is amended to read as follows:

"Worker" or "employee" means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer; an executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer; an official elected or appointed by the state, or a county, school district, area education agency, municipal corporation, or city under any form of government; a member of the Iowa state patrol; a conservation officer; and a proprietor, limited liability company member, limited liability partner, or partner who elects to be covered pursuant to section 85.1A, except as specified in this chapter.

Sec. 6. Section 85.61, subsection 13, paragraph e, Code 2001, is amended to read as follows:

e. Proprietors, limited liability company members, limited liability partners, and partners who have not elected to be covered by the workers' compensation law of this state pursuant to section 85.1A.

Sec. 7. Section 86.26, Code 2001, is amended to read as follows:

86.26 JUDICIAL REVIEW.

Judicial review of decisions or orders of the workers' compensation commissioner may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa adminis-

trative procedure Act, petitions for judicial review may be filed in the district court of the county in which the hearing under section 86.17 was held, ~~and~~ the workers' compensation commissioner shall transmit to the reviewing court the original or a certified copy of the entire record of the contested case which is the subject of the petition within thirty days after receiving written notice from the party filing the petition that a petition for judicial review has been filed, and an application for stay of agency action during the pendency of judicial review shall not be filed in the division of workers' compensation of the department of workforce development but shall be filed with the district court. Such a review proceeding shall be accorded priority over other matters pending before the district court.

Sec. 8. Section 627.13, Code 2001, is amended to read as follows:

627.13 WORKERS' COMPENSATION.

~~Any~~ Notwithstanding the provisions of sections 554.9406 and 554.9408, any compensation due or that may become due an employee or dependent under chapter 85, ~~85A, or 85B~~ is exempt from garnishment, attachment, execution, and assignment of income, except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, an assignment of income, garnishment or attachment of or the execution against compensation due an employee under chapter 85, ~~85A, or 85B~~ is not exempt but shall be limited as specified in 15 U.S.C. § 1673(b).

Sec. 9. Section 668.13, subsection 3, Code 2001, is amended to read as follows:

3. Interest shall be calculated as of the date of judgment at a rate equal to the ~~coupon issue yield equivalent, as determined by the United States secretary of the treasury, of the average accepted auction price for the last auction of fifty two week United States treasury bills~~ treasury constant maturity index published by the federal reserve in the H15 Report settled immediately prior to the date of the judgment plus two percent. The state court administrator shall distribute notice monthly of that rate and any changes to that rate to all district courts.

Sec. 10. Section 9 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to February 28, 2001.

Approved April 26, 2001

CHAPTER 88

CITY ENTERPRISES — FUNDING OF CHILD CARE CENTER CONSTRUCTION AND EQUIPMENT

H.F. 535

AN ACT allowing cities to issue general obligation bonds, revenue bonds, or loan agreements to fund the construction and equipping of child care centers and providing an effective date.

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

Section 1. Section 384.24, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. Child care centers providing child care or preschool services, or both. For purposes of this paragraph, "child care" means providing for the care, supervision, and guidance of a child by a person other than the parent, guardian, relative, or custodian for periods of less than twenty-four hours per day on a regular basis. For purposes of this paragraph, "preschool" means child care which provides to children ages three through five,