

**CHAPTER 1170****UNEMPLOYMENT INSURANCE — BENEFITS,  
EMPLOYER PARTICIPATION AND REPORTING,  
AND MISCELLANEOUS PENALTIES**

S.F. 2160

**AN ACT** relating to employers' participation in unemployment insurance adjudications and unemployment insurance tax penalties, and providing an effective date.

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

Section 1. Section 96.3, subsection 7, Code 2007, is amended to read as follows:

**7. RECOVERY OF OVERPAYMENT OF BENEFITS.**

**a.** If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

**b. (1)** If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

**(2)** An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Sec. 2. Section 96.14, subsection 2, paragraph d, Code Supplement 2007, is amended to read as follows:

**d.** ~~A penalty shall not be less than ten dollars for the first delinquent report or 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 thirty-five 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 department in the same manner as provided by this chapter for contributions.~~

Sec. 3. Section 96.14, subsection 2, Code Supplement 2007, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** **ee.** If any tendered payment of any amount due in the form of a check, draft, or money order is not honored when presented to a financial institution, any costs assessed to the department by the financial institution and a fee of thirty dollars shall be assessed to the employer.

Sec. 4. Section 96.14, Code Supplement 2007, is amended by adding the following new subsection:

**NEW SUBSECTION.** 17. EMPLOYER SUBPOENA COST AND PENALTY. An employer who is served with a subpoena pursuant to section 96.11, subsection 7, for the investigation of an employer liability issue, to complete audits, to secure reports, or to assess contributions shall pay all costs associated with the subpoena, including service fees and court costs. The department shall penalize an employer in the amount of two hundred fifty dollars if that employer refused to honor a subpoena or negligently failed to honor a subpoena. The cost of the subpoena and any penalty shall be collected in the manner provided in section 96.14, subsection 3.

Sec. 5. EFFECTIVE DATE. The sections of this Act amending section 96.14 take effect January 1, 2009.

Approved May 15, 2008

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## CHAPTER 1171

### PUBLIC RETIREMENT SYSTEMS AND ANALOGOUS BENEFITS

*S.F. 2424*

**AN ACT** concerning public retirement systems and other employee benefit-related matters, including the public safety peace officers' retirement, accident, and disability system, the Iowa public employees' retirement system, the statewide fire and police retirement system, and the judicial retirement system, including implementation and transition provisions, and providing effective and retroactive applicability dates.

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

#### DIVISION I PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Section 1. Section 97A.1, subsection 14, Code 2007, is amended by striking the subsection.

Sec. 2. Section 97A.1, subsection 15, Code 2007, is amended to read as follows:

15. "Pensions" shall mean annual payments for life derived from the appropriations provided by the state of Iowa and from contributions of the members which are deposited in the ~~pension accumulation~~ retirement fund. All pensions shall be paid in equal monthly installments.

Sec. 3. Section 97A.5, subsections 3 and 4, Code 2007, are amended to read as follows:

3. COMPENSATION. The trustees shall serve as such without compensation, but they shall be reimbursed from the ~~expense~~ retirement fund for all necessary expenses which they may incur through service on the board.

4. RULES. The board of trustees shall, from time to time, establish such rules not inconsistent with this chapter, for the administration of ~~funds~~ the system and the retirement fund created by this chapter and as may be necessary or appropriate for the transaction of its business.