

House Study Bill 673

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON LABOR
BILL BY CHAIRPERSON OLSON)

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

A BILL FOR

1 An Act requiring an annual cost-of-living adjustment for certain
2 weekly workers' compensation benefits.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6473YC 82
5 av/rj/14

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1 1 Section 1. Section 85.36, Code 2007, is amended to read as
1 2 follows:
1 3 85.36 BASIS OF COMPUTATION.
1 4 1. The basis of compensation shall be the weekly earnings
1 5 of the injured employee at the time of the injury. Weekly
1 6 earnings means gross salary, wages, or earnings of an employee
1 7 to which such employee would have been entitled had the
1 8 employee worked the customary hours for the full pay period in
1 9 which the employee was injured, as regularly required by the
1 10 employee's employer for the work or employment for which the
1 11 employee was employed, computed, or determined as follows and
1 12 then rounded to the nearest dollar:
1 13 ~~1- a.~~ In the case of an employee who is paid on a weekly
1 14 pay period basis, the weekly gross earnings.
1 15 ~~2- b.~~ In the case of an employee who is paid on a
1 16 biweekly pay period basis, one-half of the biweekly gross
1 17 earnings.
1 18 ~~3- c.~~ In the case of an employee who is paid on a
1 19 semimonthly pay period basis, the semimonthly gross earnings
1 20 multiplied by twenty-four and subsequently divided by
1 21 fifty-two.
1 22 ~~4- d.~~ In the case of an employee who is paid on a monthly
1 23 pay period basis, the monthly gross earnings multiplied by
1 24 twelve and subsequently divided by fifty-two.
1 25 ~~5- e.~~ In the case of an employee who is paid on a yearly
1 26 pay period basis, the weekly earnings shall be the yearly
1 27 earnings divided by fifty-two.
1 28 ~~6- f.~~ In the case of an employee who is paid on a daily
1 29 or hourly basis, or by the output of the employee, the weekly
1 30 earnings shall be computed by dividing by thirteen the
1 31 earnings, not including overtime or premium pay, of the
1 32 employee earned in the employ of the employer in the last
1 33 completed period of thirteen consecutive calendar weeks
1 34 immediately preceding the injury. If the employee was absent
1 35 from employment for reasons personal to the employee during
2 1 part of the thirteen calendar weeks preceding the injury, the
2 2 employee's weekly earnings shall be the amount the employee
2 3 would have earned had the employee worked when work was
2 4 available to other employees of the employer in a similar
2 5 occupation. A week which does not fairly reflect the
2 6 employee's customary earnings shall be replaced by the closest
2 7 previous week with earnings that fairly represent the
2 8 employee's customary earnings.
2 9 ~~7- g.~~ In the case of an employee who has been in the
2 10 employ of the employer less than thirteen calendar weeks
2 11 immediately preceding the injury, the employee's weekly
2 12 earnings shall be computed under ~~subsection 6~~ paragraph "f",
2 13 taking the earnings, not including overtime or premium pay,
2 14 for such purpose to be the amount the employee would have
2 15 earned had the employee been so employed by the employer the
2 16 full thirteen calendar weeks immediately preceding the injury
2 17 and had worked, when work was available to other employees in
2 18 a similar occupation. If the earnings of other employees
2 19 cannot be determined, the employee's weekly earnings shall be

2 20 the average computed for the number of weeks the employee has
2 21 been in the employ of the employer.

2 22 h. In the case of an employee injured in the course of
2 23 performing as a professional athlete, the basis of
2 24 compensation for weekly earnings shall be one-fiftieth of
2 25 total earnings which the employee has earned from all
2 26 employment for the previous twelve months prior to the injury.

2 27 ~~8- 2.~~ If at the time of the injury the hourly earnings
2 28 have not been fixed or cannot be ascertained, the earnings for
2 29 the purpose of calculating compensation shall be taken to be
2 30 the usual earnings for similar services where such services
2 31 are rendered by paid employees.

2 32 ~~9- 3.~~ If an employee earns either no wages or less than
2 33 the usual weekly earnings of the regular full-time adult
2 34 laborer in the line of industry in which the employee is
2 35 injured in that locality, the weekly earnings shall be
3 1 one-fiftieth of the total earnings which the employee has
3 2 earned from all employment during the twelve calendar months
3 3 immediately preceding the injury.

3 4 a. In computing the compensation to be allowed a volunteer
3 5 fire fighter, emergency medical care provider, reserve peace
3 6 officer, volunteer ambulance driver, volunteer emergency
3 7 rescue technician as defined in section 147A.1, or emergency
3 8 medical technician trainee, the earnings as a fire fighter,
3 9 emergency medical care provider, reserve peace officer,
3 10 volunteer ambulance driver, volunteer emergency rescue
3 11 technician, or emergency medical technician trainee shall be
3 12 disregarded and the volunteer fire fighter, emergency medical
3 13 care provider, reserve peace officer, volunteer ambulance
3 14 driver, volunteer emergency rescue technician, or emergency
3 15 medical technician trainee shall be paid an amount equal to
3 16 the compensation the volunteer fire fighter, emergency medical
3 17 care provider, reserve peace officer, volunteer ambulance
3 18 driver, volunteer emergency rescue technician, or emergency
3 19 medical technician trainee would be paid if injured in the
3 20 normal course of the volunteer fire fighter's, emergency
3 21 medical care provider's, reserve peace officer's, volunteer
3 22 ambulance driver's, volunteer emergency rescue technician's,
3 23 or emergency medical technician trainee's regular employment
3 24 or an amount equal to one hundred and forty percent of the
3 25 statewide average weekly wage, whichever is greater.

3 26 b. If the employee was an apprentice or trainee when
3 27 injured, and it is established under normal conditions the
3 28 employee's earnings should be expected to increase during the
3 29 period of disability, that fact may be considered in computing
3 30 the employee's weekly earnings.

3 31 c. If the employee was an inmate as defined in section
3 32 85.59, the inmate's actual earnings shall be disregarded, and
3 33 the weekly compensation rate shall be as set forth in section
3 34 85.59.

3 35 ~~10- 4.~~ If a wage, or method of calculating a wage, is
4 1 used for the basis of the payment of a workers' compensation
4 2 insurance premium for a proprietor, partner, limited liability
4 3 company member, limited liability partner, or officer of a
4 4 corporation, the wage or the method of calculating the wage is
4 5 determinative for purposes of computing the proprietor's,
4 6 partner's, limited liability company member's, limited
4 7 liability partner's, or officer's weekly workers' compensation
4 8 benefit rate.

4 9 ~~11- 5.~~ In computing the compensation to be allowed an
4 10 elected or appointed official, the official may choose either
4 11 of the following payment options:

4 12 a. The official shall be paid an amount of compensation
4 13 based on the official's weekly earnings as an elected or
4 14 appointed official.

4 15 b. The earnings of the official as an elected or appointed
4 16 official shall be disregarded and the official shall be paid
4 17 an amount equal to one hundred forty percent of the statewide
4 18 average weekly wage.

4 19 ~~12. In the case of an employee injured in the course of~~
4 20 ~~performing as a professional athlete, the basis of~~
4 21 ~~compensation for weekly earnings shall be one-fiftieth of~~
4 22 ~~total earnings which the employee has earned from all~~
4 23 ~~employment for the previous twelve months prior to the injury.~~

4 24 6. The basis of compensation for permanent disability
4 25 benefits shall increase on January 1 of each year for
4 26 compensation which becomes due that year by a percentage equal
4 27 to the cost-of-living adjustment made to disability benefits
4 28 payable by the United States social security administration in
4 29 December of the immediately preceding year.

4 31 This bill requires an annual cost-of-living adjustment for
4 32 certain weekly workers' compensation benefits.
4 33 The bill requires the basis of compensation for weekly
4 34 workers' compensation benefits payable for permanent
4 35 disabilities to increase on January 1 each year for
5 1 compensation which becomes due that year, by a percentage
5 2 equal to the cost-of-living adjustment made to disability
5 3 benefits payable by the United States social security
5 4 administration in December of the immediately preceding year.
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