

State Govt. 3/25

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Senate File 341
State Government
Glenn, Chairman
Redmond
Nystrom

SENATE FILE 341

By PALMER, COLEMAN, DODERER,
GALLAGHER, GLENN, HILL of
Jasper and WILLITS
(Small, Krause, Avenson,
Schroeder, Readinger, Bennett,
Svoboda, Connors, Hansen,
Wyckoff, Spencer and Drake)

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

A BILL FOR

- 1 An Act relating to the bonding of governmental employees.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. NEW SECTION. DEFINITIONS. As used in this
2 Act, unless the context otherwise requires:

- 3 1. "Commissioner" means the commissioner of insurance.
- 4 2. "Public employee" means any officer, deputy, or employee
5 of the state or any of its subdivisions who is required to
6 be bonded by any law of this state.
- 7 3. "Blanket bond" means a bond which covers collectively
8 the entire personnel without the necessity of scheduling the
9 employees' names or positions as a part of the bond, and a
10 bond whereby new employees entering employment during the
11 period of the bond are automatically included without notice
12 to the fund.
- 13 4. "Fund" shall mean the state bonding fund.

14 Sec. 2. NEW SECTION. BLANKET BOND COVERAGE AVAILABLE
15 TO STATE DEPARTMENTS, AGENCIES, INDUSTRIES, AND INSTITUTIONS.

16 A state bonding fund is created and shall be under the
17 management of the commissioner, and shall be maintained as
18 a fund for the bonding of public employees including those
19 who are not specifically required by law to be bonded. All
20 moneys collected under the provisions of this Act shall be
21 remitted to the treasurer of state and shall be credited to
22 the fund.

23 The state bonding fund shall provide coverage as set forth
24 in section nine (9) of this Act in the form of a blanket bond
25 to state departments, agencies, industries, and institutions,
26 and to political subdivisions, subject to the approval of
27 the commissioner who may exclude certain employees or groups
28 of employees. The commissioner shall prescribe the kind of
29 blanket bond coverage, with or without deductible provisions,
30 available through the fund, the procedure to be followed in
31 obtaining blanket bond coverage, and the forms upon which
32 blanket bond coverage shall be requested. Public employees
33 required to be bonded by law may be included in blanket bond
34 coverage, and blanket bond coverage may be greater but not
35 less than the maximum bond provided in the law for the

1 positions. A blanket bond shall fulfill statutory bonding
2 requirements for any position.

3 Sec. 3. NEW SECTION. INVESTMENT OF FUND. Investment
4 of the fund shall be under the supervision of the treasurer
5 of state.

6 Sec. 4. NEW SECTION. COMMISSIONER MAY EMPLOY ASSISTANTS.
7 The commissioner may employ such clerical and other assistants
8 as may be necessary to operate the fund.

9 Sec. 5. NEW SECTION. REPORT OF ELECTION OR APPOINTMENT
10 OF PUBLIC EMPLOYEE--PAYMENT OF PREMIUMS. Before any public
11 employee, excluding one whose position is covered by a blanket
12 bond, shall assume his duties, his employer shall report to
13 the commissioner in the manner and form the commissioner shall
14 prescribe, the election or appointment of such public employee
15 and the amount of the bond required of him, and shall remit
16 with the report the premium required under the provisions
17 of this Act.

18 Sec. 6. NEW SECTION. PREMIUMS--AMOUNT TO WHOM PAID--MIN-
19 IMUM. The premium for insurance furnished under this chapter
20 shall be determined by the commissioner. Premiums shall be
21 paid in advance by the proper authority of the state, or of
22 the subdivision of the state, which the public employee for
23 whom a bond is required was elected or appointed to serve,
24 from its treasury, to the treasurer of state who shall keep
25 the same in the fund. The treasurer of state shall issue
26 quadruple receipts and shall file one receipt in his office,
27 and shall mail one to the official making payment, one to
28 the commissioner, and one to the auditor of state. Unless
29 the term of office or employment shall be for a shorter period,
30 payments shall be made for one year or for such longer terms
31 as the commissioner may prescribe. The bonds of all retiring
32 public employees shall be transferred to their successors
33 for unexpired terms without any additional premium, when
34 written application is made to the commissioner. No notice
35 or application shall be required when a public employee is

1 covered under a blanket bond. The premiums shall be waived
2 until the reserve fund of the state bonding fund shall have
3 been depleted below the sum of two and one-half million
4 dollars. The collection of premiums shall be resumed on the
5 bonds of all public employees of the state and each political
6 subdivision whenever the reserve fund shall have been depleted
7 below the sum of two and one-half million dollars. The premium
8 shall be collected again until the reserve fund shall reach
9 a total of three million dollars, at which time all premiums
10 shall again be waived until the reserve fund has been depleted
11 below the sum of two and one-half million dollars. This
12 section with respect to the collection of bond premiums shall
13 constitute a continuing plan of maintaining the reserve fund
14 so that it shall never remain below the sum of two and one-
15 half million dollars nor be allowed to exceed the sum of three
16 million dollars.

17 Sec. 7. NEW SECTION. EFFECT OF FAILURE TO REPORT ELECTION
18 OR APPOINTMENT OF PUBLIC EMPLOYEE OR FOLLOW PROCEDURE
19 PRESCRIBED BY COMMISSIONER AND TO PAY BOND PREMIUM. Unless
20 the report required by section five (5) of this Act shall
21 be made in the case of an individual bond or the procedure
22 prescribed by the commissioner is followed in the case of
23 a blanket bond and the premium required by section six (6)
24 of this Act shall be paid within ten days after the service
25 of a public employee has begun, the officer whose duty it
26 is to make the report or follow the procedure and pay the
27 premium, during the term of the default, shall be liable by
28 force of this Act as a surety on the bond of the public
29 employee with the same effect and to the same extent as if
30 the bond had been signed, approved, and filed as otherwise
31 required by law and shall be guilty of a misdemeanor. No
32 compensation shall be paid to any public employee unless his
33 appointment or election has been reported or the procedure
34 prescribed by the commissioner is followed and the premium
35 payment for such employee or blanket bond shall have been

1 made to the commissioner or a bond shall have been filed in
2 lieu thereof as provided in this Act.

3 Sec. 8. NEW SECTION. AUTOMATIC INSURANCE OF STATE AND
4 POLITICAL SUBDIVISIONS. The public employees of the state
5 and each political subdivision shall be insured in the fund
6 according to the provisions of this Act upon application to
7 and approval by the commissioner. Unless an application is
8 denied within sixty days from the date it is received it will
9 be deemed approved and bond coverage in force. The provisions
10 of this Act and of any statute requiring a bond shall
11 constitute the bond of each and every public employee for
12 the purpose of any law of this state requiring the bond and
13 shall constitute the entire contract between the fund and
14 the state or its political subdivisions, respectively, as
15 the obligee in any such bond.

16 Sec. 9. NEW SECTION. CONDITION OF BOND CREATED BY CHAPTER-
17 -LIMITATION. The condition of the bond arising under the
18 provisions of this Act shall be limited to that of a surety
19 or fidelity bond and shall provide that the public employee,
20 as principal, faithfully and impartially shall discharge and
21 perform the duties of his office or employment, including
22 such duties as are or may be imposed upon him by law, and
23 shall render a true account of all moneys and property of
24 every kind that shall come into his hands as a public employee,
25 and shall pay over and deliver them according to law. The
26 bond shall not include coverage for claims resulting from
27 the death or injury of any person or for property damage.

28 Sec. 10. NEW SECTION. DEFAULT OF PUBLIC EMPLOYEES--DUTY
29 OF PUBLIC OFFICER--LIMITATION ON FILING OF CLAIMS AGAINST
30 FUND. Within sixty days after the discovery of any default
31 or wrongful act on the part of any public employee for which
32 the fund is or may become liable, the auditor of state, county
33 auditor, city auditor, township clerk, or school district
34 clerk, or the treasurer of state or the treasurer of a
35 subdivision, if the defaulting officer is the auditor of state

1 or auditor or clerk of a subdivision, and any other officer
2 having supervision of a defaulting public employee, shall
3 file a claim with the commissioner against the fund. Any
4 person injured by a default or wrongful act, if he intends
5 to hold the fund liable, must present his claim to the
6 commissioner within sixty days after the discovery of the
7 default or wrongful act. If a claim is not filed within the
8 time limited by this section it is waived. A claim filed under
9 the provisions of this section shall contain an abstract of
10 the facts upon which it is based and shall be verified by
11 the claimant or by someone in his behalf, and, together with
12 all papers relating to it, shall remain on file with the
13 commissioner.

14 Sec. 11. NEW SECTION. COMMISSIONER TO NOTIFY AUDITOR
15 OF STATE OF DEFAULT OF PUBLIC EMPLOYEE--DUTY OF AUDITOR OF
16 STATE. If any public employee shall default or create a
17 liability against the fund, the commissioner shall notify
18 the auditor of state, who immediately shall check the accounts
19 of the public employee and file a report with the commissioner
20 stating the amount, if any, due from the fund because of the
21 default or wrongful act.

22 Sec. 12. NEW SECTION. AUDIT OF CLAIMS AGAINST STATE
23 BONDING FUND--REGISTER OF CLAIMS. All liability claims against
24 the fund shall be audited by the commissioner, and the audit
25 shall be approved by the attorney general. The commissioner
26 shall have the authority to prescribe the forms upon which
27 claims shall be presented, and may administer oaths and examine
28 witnesses in connection with claims presented to him. If
29 the commissioner, with the approval of the attorney general,
30 shall find a claim or any part thereof to be a valid, just,
31 and proper charge against the fund, he shall make and file
32 an order to that effect and state therein the amount allowed
33 upon the claim. A brief description of every claim filed
34 against the fund shall be entered by the commissioner in a
35 register provided for that purpose showing the name of the

1 claimant, the amount and character of the claim, the action
2 taken upon the claim, and the date when the action was taken.

3 Sec. 13. NEW SECTION. FILING CLAIM IS CONDITION PRECEDENT
4 TO BRINGING ACTION--FAILURE TO ACT IS REFUSAL. No action
5 shall be maintained against the fund upon any claim whatever
6 until the claim first has been presented for allowance as
7 provided in this chapter and the allowance of the claim has
8 been refused. Any claim which has not been acted upon and
9 allowed or disallowed within sixty days after its presentation
10 for allowance shall be deemed to be refused. The filing and
11 disallowance of the claim must be alleged in the complaint
12 in any action brought thereon against the fund.

13 Sec. 14. NEW SECTION. LIMITATION OF TIME FOR BRINGING
14 ACTION AGAINST THE FUND. No action shall be maintained against
15 the fund upon any claim whatever unless the action is commenced
16 within one year after the filing of the claim with the commis-
17 sioner.

18 Sec. 15. NEW SECTION. SUIT BY PARTY INJURED BY DEFAULT
19 OF PUBLIC EMPLOYEE--SUBROGATION--RIGHT OF APPEAL. Any person
20 or corporation injured by the default or wrongful act of any
21 public employee may sue the public employee and join the fund
22 as codefendant. If a judgment is obtained against the public
23 employee, it shall specify that, to the extent to which the
24 fund is liable upon the bond of the public employee, the
25 judgment shall be paid out of any moneys in the fund or that
26 may accrue thereafter to the fund. If a judgment is paid
27 out of the fund, the fund shall be subrogated to the right
28 of the judgment creditor to recover against the public
29 employee. In all proceedings to enforce a right of
30 subrogation, the commissioner shall act for and in behalf
31 of the fund, and in any action or proceeding, he may appeal
32 from any appealable order or from any judgment against the
33 fund the same as other parties to civil actions may appeal.

34 Sec. 16. NEW SECTION. ALLOWED LIABILITY CLAIMS PAYABLE
35 FROM FUND--ADMINISTRATIVE EXPENSES--METHODS OF PAYMENT. All

1 liability claims which are allowed against the fund shall
2 be paid upon warrants drawn upon the treasurer of state against
3 the fund.

4 Sec. 17. NEW SECTION. COMMISSIONER MAY MAKE EXAMINATIONS-
5 REQUEST FOR ACCOUNTING--REPORT OF DEFAULTING EMPLOYEE TO
6 GOVERNOR. If the commissioner shall be of the opinion at
7 any time that the interests of the fund are jeopardized by
8 the misconduct or inefficiency of any public employee, he
9 shall make, or request the auditor of state to make, an
10 examination, and, if necessary, he shall cause an action for
11 an accounting to be instituted against the public employee
12 for the purpose of requiring a complete disclosure of the
13 business of the office of which the public employee is an
14 incumbent. The action shall be brought in the name of the
15 commissioner as plaintiff, and the court may interplead all
16 parties concerned. Whenever the commissioner deems it
17 advisable, he shall make a complaint to the governor requesting
18 the governor to institute an investigation with the purpose
19 of removing from office any defaulting public employee or
20 any public employee who so conducts the affairs of his office
21 as to endanger the fund.

22 Sec. 18. NEW SECTION. CANCELLATION OF LIABILITY OF FUND-
23 WHEN PERMITTED--EFFECT. The commissioner, after due
24 investigation and if in his judgment the interests of the
25 fund require, may cancel the liability of the fund for the
26 acts of any public employee. The cancellation shall take
27 effect thirty days after written notice. The public employee
28 whose bond is canceled may secure, at his own cost, a bond
29 executed by a duly authorized surety company.

30 Sec. 19. NEW SECTION. NOTICE OF CANCELLATION--RIGHT TO
31 APPEAL FROM CANCELLATION--PROCEDURE. The commissioner shall
32 notify the public employee immediately by registered or
33 certified mail when his bond is ordered canceled, and the
34 public employee shall have twenty days after the receipt of
35 the notice to appeal from the decision of the commissioner

1 to the district court where he resides. The court shall hear
2 the appeal not less than ten days nor more than thirty days
3 after the filing of the appeal with the clerk. Notice of
4 the appeal shall be served by the appellant upon the
5 commissioner. The case shall be tried by the court without
6 a jury.

7 Sec. 20. NEW SECTION. FUND MAY REINSURE RISKS--PREMIUM
8 ON REINSURANCE. The commissioner may reinsure any part of
9 any liability in excess of twenty-five thousand dollars upon
10 any one public employee at a cost not exceeding the rate of
11 premium provided for in this Act. The expense of reinsurance
12 shall be paid out of the fund.

13 Sec. 21. NEW SECTION. PUBLICATION OF STATEMENT OF FUND-
14 BIENNIAL REPORT TO GOVERNOR AND SECRETARY OF STATE. The
15 commissioner shall each year preceding the regular session
16 of the general assembly report to the governor and to the
17 general assembly on the condition of the fund during the
18 preceding year.

19 Sec. 22. NEW SECTION. PUBLIC EMPLOYEE MAY FURNISH PRIVATE
20 BOND--PREMIUMS PAYABLE FROM PUBLIC MONEYS ONLY TO FUND. Any
21 person elected or appointed to office, in lieu of the bond
22 provided for in this Act, may furnish a bond issued by a duly
23 authorized surety company, but no officer or board of the
24 state or of any county, city, school district, or township
25 shall pay for the bond out of any public funds, except for
26 bonds procured to cover an excess over the amount carried
27 in the fund.

28 Sec. 23. NEW SECTION. ATTORNEY GENERAL IS ATTORNEY FOR
29 FUND. The attorney general shall act as attorney for the
30 commissioner in any and all actions and proceedings to which
31 the commissioner is a party on behalf of the fund.

32 EXPLANATION

33 This bill provides that the commissioner of insurance will admin-
34 ister a state bonding fund for the bonding of all public employees
35 required by law to be bonded. Blanket bond coverage may be provided.