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SENATE FILE **2187**
BY COMMITTEE ON BUSINESS AND
LABOR RELATIONS
Approved (p. 300)
(SUCCESSOR TO SSB 2098)

FILED JAN 31 1990

Passed Senate, Date 2/12/90 (p. 472) Passed House, Date 3/13/90 (p. 1057)
Vote: Ayes 43 Nays 1 Vote: Ayes 88 Nays 6
Approved March 27, 1990

A BILL FOR

1 An Act relating to workers' health, safety, and welfare, and
2 effecting funding for the second injury fund.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2187

1 Section 1. Section 85.66, unnumbered paragraph 1, Code
2 1989, is amended to read as follows:

3 When the total amount of the payments provided for in the
4 preceding section, together with accumulated interest and
5 earnings, equals or exceeds five-hundred-thousand one million
6 dollars no further contributions to the fund shall be
7 required; but when, thereafter, the amount of the sum is
8 reduced below three five hundred thousand dollars by reason of
9 payments made to employees pursuant to this division,
10 contributions shall be resumed and shall continue until the
11 sum, together with accumulated interest and earnings, again
12 amounts to five-hundred-thousand one million dollars. The
13 treasurer of state shall determine when contributions shall be
14 made to the fund and when they shall be suspended and may
15 enforce the collection of contributions.

16 EXPLANATION

17 This bill increases the minimum and maximum dollar amount
18 limitation mechanisms for the workers' compensation second
19 injury fund. The fund provides financial assurance for
20 injuries to workers related to a prior injury and is intended
21 to prevent employer discrimination against workers with prior
22 injuries or handicaps. The fund is financed by contributions
23 to the fund whenever a workers' compensation death benefit is
24 paid, except that currently payments are not required if the
25 fund balance exceeds \$500,000. If the fund balance falls
26 below \$250,000, currently, mandatory contributions are again
27 required when a death benefit is paid. This bill increases
28 the triggering of contributions from \$250,000 to \$500,000, and
29 increases the cap from \$500,000 to \$1,000,000.

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SENATE FILE 2187
FISCAL NOTE

A fiscal note for Senate File 2187 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2187 changes the amount the Treasurer maintains in the Second Injury Fund. The Second Injury Compensation Act was established in the 1940's to remove the financial disincentive from employers to hire workers with disabilities. The fund supplements benefits to these people who are injured on the job a second time or who become permanently disabled by a second injury. The fund is financed by one-time payments made by employers, or their insurers, who have an employee killed on the job. The Treasurer collects the contributions from employers when the Fund falls below \$300,000 and ceases collection when the Fund exceeds \$500,000.

Senate File 2187 increases the Fund's floor from \$300,000 to \$500,000 and its ceiling from \$500,000 to \$1,000,000. This change is intended to reduce the likelihood of the Fund being exhausted by one or a few large claims.

ASSUMPTIONS:

1. The Treasurer will invest the money in the Second Injury Fund and receive 7.1% return (which is the average rate of return for the last three years for pooled money).
2. The Fund will payout \$200,000 annually over the next few years.
3. The Fund will reach \$1,000,000 by the end of FY 1991 and the average balance in the fund for FY 1991 will be \$750,000; the average balance will be \$900,000 in FY 1992.
4. The interest earned in FY 1991 will be \$53,250 and \$63,900 in FY 1992.
5. The average fund balance is be \$400,000 under the current law.
6. The interest earned under the current law is be \$28,400.
7. The increased interest earned on the Second Injury Fund under the new law will be \$24,850 in FY 1991 and \$35,500 in FY 1992.

FISCAL EFFECT:

This change has no anticipated fiscal impact upon the General Fund. Contributions are not made by the State, and the Second Injury Compensation Act does not indicate that the State is liable for a shortfall in the Second Injury Fund.

Employers, or their insurers, will bear the costs of increasing the floor and ceiling by continuing to make contributions until the fund reaches \$1,000,000 rather than stopping when it reaches \$500,000. There will be a one-time cost of approximately \$500,000 to Iowa employers, or their insurers, plus \$200,000 for FY 1991 benefits costs to reach the new ceiling. Future costs will increase by however much the size of the claims increase. These costs will be set by additional interest earned; the increased interest will be

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approximately \$24,850 for FY 1991 and \$35,500 for FY 1992.

The risk that the fund will be exhausted and that claimants will not receive their benefits will be reduced.

Source: Office of the Treasurer (LSB 8050sv, MDF)

FILED FEBRUARY 8, 1990

BY DENNIS PROUTY, FISCAL DIRECTOR

STURGEON, CH.
PALMER
VANDEHOEF

SSB 2098
BUSINESS & LABOR RELATIONS

SENATE FILE 2187
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR
RELATIONS BILL BY
CHAIRPERSON PETERSON)

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

A BILL FOR

1 An Act relating to workers' health, safety, and welfare, by
2 providing funding for the second injury fund and providing
3 applicability and effective dates.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 85.65, Code Supplement 1989, is amended
2 by striking the section and inserting in lieu thereof the
3 following:

4 85.65 PAYMENTS TO THE SECOND INJURY FUND -- ASSESSMENT
5 BASED ON PREMIUM DOLLARS PAID OR SELF-INSURANCE COSTS.

6 1. For the purpose of providing for revenue for the second
7 injury fund, every authorized self-insurer approved by the
8 commissioner of insurance pursuant to section 87.11, every
9 policyholder of an authorized self-insurance group approved by
10 the commissioner pursuant to section 87.4, and every workers'
11 compensation policyholder of a plan or policy insured pursuant
12 to this chapter or rules adopted pursuant to this chapter,
13 shall be liable for payment of an annual surcharge in
14 accordance with this section. The annual surcharge shall
15 apply to all workers' compensation insurance policies and
16 self-insurance coverages which are written or renewed on or
17 after July 1, 1991, including the state of Iowa coverages,
18 including any coverages for its departments, divisions,
19 agencies, commissions, and boards, or any political
20 subdivision coverages which are self-insured or held out to be
21 in any part self-insured. The surcharge shall not apply to
22 any reinsurance or retrocessional transaction under section
23 520.4 or 520.9.

24 2. On June 1, 1991, and each year thereafter, the
25 treasurer of state shall estimate the amount of benefits and
26 administrative expenses payable from the second injury fund
27 during the ensuing calendar year, and shall calculate the
28 total amount of the annual surcharge to be imposed during the
29 ensuing calendar year upon all workers' compensation
30 policyholders and authorized self-insurers based upon premiums
31 paid or deposits required in the previous year as reported by
32 the commissioner of insurance. The amount of the annual
33 surcharge to be imposed upon all policyholders and self-
34 insurers shall equal the moneys estimated by the treasurer of
35 state to be payable from the second injury fund during the

1 calendar year for which the annual surcharge is to be imposed,
2 except that the surcharge shall not exceed three percent of
3 the policyholder's or authorized self-insurer's workers'
4 compensation required deposits, premiums paid or due, or
5 assessments paid or due a self-insurance group, and provided
6 that a minimum annual surcharge of ten dollars per
7 policyholder or authorized self-insurer shall be paid. The
8 surcharge shall be collected from policyholders by each
9 insurer at the same time and in the same manner that a premium
10 is collected, but an insurance carrier or its agent shall not
11 be entitled to any portion of the surcharge as a fee or
12 commission for its collection. The surcharge is not subject
13 to any taxes, licenses, or fees.

14 3. All surcharge amounts imposed by this section shall be
15 paid to the Iowa department of revenue and finance and shall
16 be deposited to the credit of the second injury fund.

17 4. Such surcharge amounts shall be paid annually by
18 insurers and self-insurers. Insurers shall pay the amounts
19 not later than the thirtieth day of the month following the
20 end of the year in which the amount is received from
21 policyholders. For purposes of the second injury fund
22 surcharge, "insurer" includes a self-insurance group approved
23 by the commissioner of insurance pursuant to section 87.4. An
24 authorized self-insurer approved by the commissioner pursuant
25 to section 87.11 shall pay the surcharge not later than July
26 30 of the year in which the surcharge is imposed.

27 5. If a policyholder or self-insurer fails to make payment
28 of the surcharge or an insurer fails to make timely transfer
29 to the department of revenue and finance of surcharges
30 actually collected from policyholders, as required by this
31 section, a penalty of fifteen percent of the surcharge unpaid,
32 or untransferred, shall be assessed against the liable
33 policyholder, self-insurer, or insurer. Penalties assessed
34 under this subsection shall be collected in a civil action by
35 a summary proceeding brought by the department of revenue and

1 finance on behalf of the fund.

2 Sec. 2. NEW SECTION. 85.65A CARRIERS WITHDRAWING FROM
3 STATE LIABLE FOR SURCHARGE IMPOSED -- DEPARTMENT OF REVENUE
4 AND FINANCE EMPOWERED TO COLLECT.

5 If an insurance carrier withdraws from doing business in
6 this state before the tax becomes due according to section
7 85.65, or fails or neglects to pay the surcharge imposed, the
8 department of revenue and finance shall at once proceed to
9 collect the surcharge, and the department may employ such
10 legal process as may be necessary for that purpose and when so
11 collected the department shall pay the surcharge into the
12 second injury fund. The suit may be brought by the department
13 of revenue and finance, in any court of this state having
14 jurisdiction, and reasonable attorney's fees may be taxed as
15 costs in the suit.

16 Sec. 3. NEW SECTION. 85.65B DELINQUENT SURCHARGE,
17 INTEREST, RATE -- OVERPAYMENT OF SURCHARGE, CREDIT.

18 1. If the surcharge imposed by section 85.65 is not paid
19 or transferred when due, the policyholder, self-insurer, or
20 insurer responsible for the failure shall be required to pay,
21 as part of the surcharge, interest on the surcharge at the
22 rate of one and one-half percent per month for each month or
23 fraction of a month delinquent. If the state prevails in any
24 dispute concerning an assessment of surcharge which has not
25 been paid or transferred, interest shall be paid upon the
26 amount found due to the state at the rate of one and one-half
27 percent per month for each month or fraction of a month
28 delinquent.

29 2. An insurer is not liable for a surcharge which is not
30 paid to the insurer by the policyholder provided the insurer
31 has made good faith efforts to collect the surcharge from the
32 policyholder. An insurer shall report a policyholder who
33 fails to pay a surcharge within thirty days of its due date to
34 the department of revenue and finance.

35 3. In any legal contest concerning the amount of the

1 surcharge imposed under section 85.65 for a calendar year, the
2 quarterly installments for the following year shall continue
3 to be made based upon the amount assessed by the director of
4 revenue and finance. If after the end of any year, the amount
5 of the actual surcharge due is less than the total amount of
6 the installments actually paid, the excess amount paid shall
7 be credited against the tax for the following year and
8 deducted from the quarterly installment otherwise due on June
9 1.

10 Sec. 4. Section 85.66, unnumbered paragraph 1, Code 1989,
11 is amended to read as follows:

12 When the total amount of the payments provided for in the
13 preceding section, together with accumulated interest and
14 earnings, equals or exceeds five-hundred-thousand two million
15 dollars no-further-contributions-to surcharge assessments for
16 the fund shall be required suspended commencing with the next
17 quarter; but when, thereafter, the amount of the sum is
18 reduced below three-hundred-thousand one million dollars by
19 reason of payments made to employees pursuant to this
20 division, contributions surcharge assessments shall be resumed
21 commencing with the next quarter and shall continue until the
22 sum, together with accumulated interest and earnings, again
23 amounts to five-hundred-thousand two million dollars. The
24 treasurer of state shall determine when contributions
25 surcharge assessments shall be made to for the fund and when
26 they shall be suspended and the treasurer of state or the
27 department of revenue and finance may enforce the collection
28 of contributions the surcharge.

29 Sec. 5. NEW SECTION. 85.68A EXPENSES OF ADMINISTRATION
30 PAYABLE FROM FUND.

31 The expenses incurred by the treasurer of state, the
32 attorney general, or the department of revenue and finance, in
33 connection with the second injury fund, are chargeable to the
34 second injury fund and may be made paid from the fund. The
35 treasurer of state may enter into one or more agreements

1 authorized under chapter 28E with the department of revenue
2 and finance and the attorney general to provide compensation
3 for the administrative functions provided by those departments
4 in connection with the fund.

5 Sec. 6. NEW SECTION. 85.68B RULES.

6 The treasurer of state may adopt rules, pursuant to chapter
7 17A, as necessary and convenient to administer the second
8 injury fund and enforce the second injury fund surcharge
9 assessments.

10 EXPLANATION

11 Sections 1 through 3 change the funding mechanism for the
12 workers' compensation second injury fund and provide
13 procedural and enforcement authority for collecting the newly
14 imposed surcharge. Currently the second injury fund is
15 financed by a payment to the fund from each death benefit paid
16 under the workers' compensation system. The bill replaces the
17 assessment upon death benefits paid with a surcharge or
18 assessment based upon premium dollars or self-insurance costs.

19 Section 4 increases the minimum and maximum cap for the
20 fund's balance and makes conforming changes with sections 1
21 through 3.

22 Section 5 allows administrative expenses incurred in
23 connection with the fund to be paid from the second injury
24 fund rather than the general fund.

25 Section 6 authorizes the treasurer of state to adopt
26 administrative rules regarding the second injury fund and
27 surcharges.

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treasurer of state shall determine when contributions shall be made to the fund and when they shall be suspended and may enforce the collection of contributions.

SENATE FILE 2187

AN ACT

RELATING TO WORKERS' HEALTH, SAFETY, AND WELFARE, AND
EFFECTING FUNDING FOR THE SECOND INJURY FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 85.66, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When the total amount of the payments provided for in the preceding section, together with accumulated interest and earnings, equals or exceeds five-hundred-thousand one million dollars no further contributions to the fund shall be required; but when, thereafter, the amount of the sum is reduced below three five hundred thousand dollars by reason of payments made to employees pursuant to this division, contributions shall be resumed and shall continue until the sum, together with accumulated interest and earnings, again amounts to five-hundred-thousand one million dollars. The

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2187, Seventy-third General Assembly.

Approved March 27, 1990

JOHN F. DWYER
Secretary of the Senate

TERRY E. BRANSTAD
Governor

SF 2187