

*Substituted by
HF 2229
3-12-96 (P. 730)*

FILED FEB 21 1996

SENATE FILE **2247**
BY COMMITTEE ON BUSINESS AND
LABOR RELATIONS

(SUCCESSOR TO SSB 2135)

WITHDRAWN
3-28-96
(P. 1130)

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

A BILL FOR

1 An Act relating to unemployment insurance benefits by providing
2 for employer contributions and liability for benefits
3 regarding successor employers.

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

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WITHDRAWN

S.F. 2247

1 Section 1. Section 96.7, subsection 2, paragraph e, Code
2 Supplement 1995, is amended to read as follows:

3 e. The division shall fix the contribution rate for each
4 employer and notify the employer of the rate by regular mail
5 to the last known address of the employer. An employer may
6 appeal to the division for a revision of the contribution rate
7 within thirty days from the date of the notice to the
8 employer. After providing an opportunity for a hearing, the
9 division may affirm, set aside, or modify its former
10 determination and may grant the employer a new contribution
11 rate. The division shall notify the employer of its decision
12 by regular mail. Judicial review of action of the division
13 may be sought pursuant to chapter 17A.

14 If an employer's account has been charged with benefits as
15 the result of a decision allowing benefits and the decision is
16 reversed, the employer may appeal, within thirty days from the
17 date of the next contribution rate notice, for a recomputation
18 of the rate. If contributions become due at a disputed
19 contribution rate prior to the employer receiving a decision
20 reversing benefits, the employer shall pay the contributions
21 at the disputed rate but shall be eligible for a refund
22 pursuant to section 96.14, subsection 5. If a base period
23 employer's account has been charged with benefits paid to an
24 employee at a time when the employee was employed by the base
25 period employer in the same employment as in the base period,
26 the employer may appeal, within thirty days from the date of
27 the first notice of the employer's contribution rate which is
28 based on the charges, for a recomputation of the rate.

29 Sec. 2. Section 96.7, subsection 7, paragraph e, Code
30 Supplement 1995, is amended to read as follows:

31 e. If an the entire enterprise or business of a
32 reimbursable government governmental entity is sold or
33 otherwise transferred to a subsequent employing unit and the
34 successor acquiring employing unit continues to operate the
35 enterprise or business, the successor acquiring employing unit

1 shall assume the position of the reimbursable government
2 governmental entity with respect to the reimbursable
3 government governmental entity's liability to pay the division
4 for reimbursable benefits based on the governmental entity's
5 payroll and-reimbursable-benefits to the same extent as if no
6 change in the ownership or control of the enterprise or
7 business had occurred, whether or not the successor-employer
8 acquiring employing unit elected or elects, or was or is
9 eligible to elect, to become a reimbursable employer with
10 respect to the employer's acquiring employing unit's own
11 payroll prior to or after the sale-or-transfer acquisition of
12 the governmental entity's enterprise or business.

13 Sec. 3. Section 96.7, subsection 8, paragraph b,
14 subparagraph (6), Code Supplement 1995, is amended to read as
15 follows:

16 (6) If ~~an~~ the entire enterprise or business of a
17 reimbursable nonprofit organization is sold or otherwise
18 transferred to a subsequent employing unit and the successor
19 acquiring employing unit continues to operate the enterprise
20 or business, the successor acquiring employing unit shall
21 assume the position of the reimbursable nonprofit organization
22 with respect to the nonprofit organization's liability to pay
23 the division for reimbursable benefits based on the nonprofit
24 organization's payroll and-reimbursable-benefits to the same
25 extent as if no change in the ownership or control of the
26 enterprise or business had occurred, whether or not the
27 successor-employer acquiring employing unit elected or elects,
28 or was or is eligible to elect, to become a reimbursable
29 employer with respect to the employer's acquiring employing
30 unit's own payroll prior to or after the sale-or-transfer
31 acquisition of the nonprofit organization's enterprise or
32 business.

33 Sec. 4. Section 96.14, subsection 5, Code 1995, is amended
34 to read as follows:

35 5. REFUNDS, COMPROMISES AND SETTLEMENTS. If the division

1 of job service finds that an employer has paid contributions,
2 or interest on contributions, or penalties, which have been
3 erroneously paid or ~~which have been paid~~ if the employer has
4 overpaid contributions because the employer's contribution
5 rate was subsequently reduced pursuant to section 96.7,
6 subsection 2, paragraph "e", solely due to benefits initially
7 charged against but later removed from an employer's account,
8 and the employer has filed an application for adjustment
9 refund, the division shall ~~make an adjustment, compromise, or~~
10 ~~settlement, and, at the employer's option, shall either refund~~
11 ~~the payments or treat the payments as voluntary contributions~~
12 ~~with no limitation on the payments' effects on the employer's~~
13 ~~contribution rate~~ refund the erroneous payment or overpayment.
14 Refunds so made shall be charged to the fund to which the
15 collections have been credited, and shall be paid to the
16 ~~claimant~~ employer without interest. A claim for refund shall
17 be made within three years from the date of payment. For like
18 cause, ~~adjustments~~ refunds, ~~compromises, or refunds and~~
19 ~~settlements~~ may be made by the division on its own initiative
20 within three years of the date of the payment or assessment.
21 If the division finds that the contribution that has been
22 assessed against an employer is of doubtful collectibility or
23 may not be collected in full, the division may institute a
24 proceeding in the district court in the county in which the
25 employer against which the tax is levied is located,
26 requesting authority to compromise the contribution. Notice
27 of the filing of an application shall be given to the
28 interested parties as the court may prescribe. The court upon
29 hearing may authorize the division to compromise and settle
30 its claim for the contribution and shall fix the amount to be
31 received by the division in full settlement of the claim and
32 shall authorize the release of the division's lien for the
33 contribution.

34 EXPLANATION

35 Section 1 of the bill provides that the division of job

1 ~~service send~~ contribution rate notices to employers by regular
2 mail at the employer's last known address. The section also
3 provides that the employer shall pay contributions at a
4 disputed rate prior to a decision concerning the rate but that
5 the employer is eligible for a refund pending a decision
6 reversing benefits. Sections 1 and 4 also add language
7 providing that the two Code sections dealing with employer
8 contribution rates and refunds both refer to the other
9 section.

10 Sections 2 and 3 change language concerning what occurs
11 when governmental or nonprofit reimbursable employers sell
12 their entire business. The bill changes "government" to
13 "governmental" and "successor employer" to "acquiring
14 employing unit".

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S-5297

1 Amend Senate File 2247 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 96.5, subsection 1, Code
5 Supplement 1995, is amended by adding the following
6 new paragraph.

7 NEW PARAGRAPH. j. The individual is a temporary
8 employee of a temporary employment firm who notifies
9 the temporary employment firm of completion of an
10 employment assignment and who seeks reassignment.
11 Failure of the individual to notify the temporary
12 employment firm of completion of an employment
13 assignment within three working days of the completion
14 of each employment assignment under a contract of hire
15 shall be deemed a voluntary quit unless the individual
16 was not advised in writing of the duty to notify the
17 temporary employment firm upon completion of an
18 employment assignment.

19 For purposes of this paragraph:

20 (1) "Temporary employee" means an individual who
21 is employed by a temporary employment firm to provide
22 services to clients to supplement their work force
23 during absences, seasonal workloads, temporary skill
24 or labor market shortages, and for special assignments
25 and projects.

26 (2) "Temporary employment firm" means a person
27 engaged in the business of employing temporary
28 employees."

29 2. By renumbering as necessary.

By MARY E. KRAMER

S-5297 FILED MARCH 12, 1996

Gettings
Dearden
Iverson

SSB-2135
Business & Labor
Succeeded By
SF/HF 2247

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
EMPLOYMENT SERVICES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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35 enterprise or business, the ~~successor~~ acquiring employing unit

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2 governmental entity with respect to the reimbursable
3 government governmental entity's liability to pay the division
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5 payroll and-reimbursable-benefits to the same extent as if no
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7 business had occurred, whether or not the successor-employer
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20 or business, the successor acquiring employing unit shall
21 assume the position of the reimbursable nonprofit organization
22 with respect to the nonprofit organization's liability to pay
23 the division for reimbursable benefits based on the nonprofit
24 organization's payroll and-reimbursable-benefits to the same
25 extent as if no change in the ownership or control of the
26 enterprise or business had occurred, whether or not the
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8 and the employer has filed an application for adjustment
9 refund, the division shall ~~make-an-adjustment,-compromise,-or~~
10 ~~settlement,-and,-at-the-employer's-option,-shall-either-refund~~
11 ~~the-payments-or-treat-the-payments-as-voluntary-contributions~~
12 ~~with-no-limitation-on-the-payments-effects-on-the-employer's~~
13 ~~contribution-rate~~ refund the erroneous payment or overpayment.
14 Refunds so made shall be charged to the fund to which the
15 collections have been credited, and shall be paid to the
16 claimant employer without interest. A claim for refund shall
17 be made within three years from the date of payment. For like
18 cause, adjustments refunds, compromises, or-refunds and
19 settlements may be made by the division on its own initiative
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EXPLANATION

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9 section.

10 Sections 2 and 3 change language concerning what occurs
11 when governmental or nonprofit reimbursable employers sell
12 their entire business. The bill changes "government" to
13 "governmental" and "successor employer" to "acquiring
14 employing unit".

15 BACKGROUND STATEMENT

16 SUBMITTED BY THE AGENCY

17 The changes in all four sections of this bill are technical
18 in nature and are intended for clarification of meaning,
19 consistency with other sections of the Code, and to remove
20 outdated language.

21 Section 1 clarifies that the division of job service send
22 contribution rate notices by regular mail to the last known
23 address and links section 96.7, subsection 2, to section
24 96.14, subsection 5, to clarify that the two sections must be
25 read together. Section 96.14, subsection 5, already infers
26 that the employer must pay tax at the disputed rate by
27 authorizing a refund if an overpayment of contributions is
28 caused by benefits being reversed.

29 The words "the entire" are being added to sections 2 and 3
30 of the bill to clarify that these sections deal with a
31 complete sale of a reimbursable employer's business. The rest
32 of the changes in language in sections 2 and 3 are for
33 consistency or clarification only.

34 Section 4 adds the words "or penalties" to clarify that
35 erroneously paid penalties may be refunded as is already

1 inferred by section 96.13, subsection 3, which states that
2 refunds of penalties are to come from the special employment
3 security contingency fund. Section 4 links the refund of
4 overpaid contributions because of the reversal of benefit
5 charges back to section 96.7, subsection 2, because there can
6 be no such overpayment of contributions if the rate is not
7 reduced on appeal. Section 4 removes outdated language about
8 voluntary contributions because private employer rates have
9 not used contributions in the computation since 1987. The
10 rest of the changes in section 4 are strictly for
11 clarification purposes.

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