

F I N A L R E P O R T

UNEMPLOYMENT COMPENSATION SUBCOMMITTEE

January, 1984

The Unemployment Compensation Subcommittee of the Senate and House Committees on Labor and Industrial Relations was created by the Legislative Council in 1983 to study the implementation of House File 637, as passed by the 1983 General Assembly. The Subcommittee was authorized two meeting days. The following legislators served on the Subcommittee:

Senator Ted Anderson, Co-chairperson
Representative Al Sturgeon, Co-chairperson
Senator Merlin D. Hulse
Senator Calvin O. Hultman
Senator C. W. Hutchins
Senator James D. Wells
Representative Philip E. Brammer
Representative Virgil Corey
Representative John Groninga
Representative Donald F. Hermann

The Subcommittee held its first meeting on September 26, 1983 and heard testimony from several individuals and representatives from the Iowa Department of Job Service on the implementation of House File 637. The following comments or recommendations were presented:

1. Section 19 of House File 637 was not made retroactive to claims no longer pending and therefore failed to allow the recomputation of an employer's rate in cases of overpayments. It was recommended that the Code be amended to apply the recomputation retroactively and to provide for a refund, if necessary.

2. Opposition to the lowering of maximum benefits by \$15 was heard. The new \$250 reattachment-to-the-work-force requirement was supported.

3. Officials from the Department of Job Service reviewed a letter of September 26, 1983, addressed to the Legislative Service Bureau, and made the following important observations:

a. The backward movement of the base period in workers' compensation and certain other insurance cases has been successfully implemented, with fifty-one cases filed and an allowance rate of sixty-four percent.

b. Other states pay benefits to an employee refusing to bump a fellow employee, but the states do not waive the able, available, and work search requirements.

c. New construction employers establishing accounts between July 1 and December 31, 1983 are assigned a seven percent

contribution rate, to be raised to nine percent for 1984, which is also the rate to be assigned to new construction employers establishing accounts in 1984.

d. The temporary emergency surcharge fund's balance of approximately \$15.5 million will be adequate to pay the federal interest of approximately \$12 million due on September 30, 1983.

The Subcommittee requested a bill draft for its next meeting relating to the following subjects: (1) limiting the waiver of certain requirements in job bumping situations; (2) switching the burden of proof back to the employee in certain voluntary quit cases; (3) authorizing the recomputation of employer contribution rates and refunds in certain overpayment cases; and (4) depositing the interest from job service funds in certain other funds.

At its second meeting on October 11, 1983, the Subcommittee received the following testimony:

1. Officials from the Department of Job Service presented the following information:

a. The federal loan balance peaked at approximately \$176 million and stood at approximately \$146.2 on September 30, 1983. Approximately \$11.5 million in federal interest was paid on September 30, 1983 from the temporary emergency surcharge fund.

b. Employer contributions and employee benefits are generally in line with the department's projections for a moderate recovery of the Iowa economy. However, \$20 million in employer contributions were paid earlier than required and helped reduce federal borrowing and federal interest owed.

c. Departmental projections indicate the trust fund will become solvent in 1988, assuming constant economic recovery and the absence of another recession in the next four to five years and an annual inflation rate between 4.6 percent and 6.5 percent.

d. The federal supplemental compensation program will probably be extended again by Congress. Federal mandatory changes which the 1984 General Assembly should address deal with coverage of nonprofessional employees in higher education and employment in educational services agencies.

2. Section 16 of House File 637 resulted in an employer contribution rate advantage of one percent for new construction employers for the period between July 1 and December 31, 1983. It was recommended that the Subcommittee not balance the trust fund at the expense of providing fewer jobs, especially in the area of governmental capital expenditures such as roads and bridges. It was also recommended that Iowa pass a reciprocal law giving Iowa employers the same in-state advantage in relationship to out-of-state employers given a similar advantage by the out-of-state employers' home state.

The Subcommittee reviewed the bill draft prepared by the Legislative Service Bureau and modified the following provisions of the draft: (1) the job bumping provision; (2) the voluntary quit burden-of-proof provision; (3) the interest deposit provisions; and (4) the employer overpayment refund provision. In addition, the Subcommittee requested the drafting of a \$50,000 annual limitation on the penalty and interest fund.

By formal action the Subcommittee unanimously approved the unemployment Compensation bill draft, as amended, and the proposal for a reciprocal in-state employer preference bill and requested that the two bills be sent to the Legislative Council and to the Lieutenant Governor and the Speaker of the House with the Subcommittee's recommendations. The bill drafts are attached.

PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS BILL BY THE
UNEMPLOYMENT COMPENSATION SUBCOM-
MITTEE)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act to provide a preference for residents in awarding of
2 public contracts in certain situations.

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

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1 Section 1. NEW SECTION. 73.12 PUBLIC IMPROVEMENT
2 CONTRACTS. If competitive bidding is required by law, a
3 contract for a public improvement or any services required
4 in the construction of a public improvement shall be awarded
5 to a resident of this state submitting the lowest responsible
6 bid if the resident's bid is not more than ten percent higher
7 than the lowest responsible nonresident bid. However, the
8 criteria set out in this section shall apply only to bids
9 received from a nonresident of a state which has a law
10 providing preferential treatment for the letting of bids for
11 public improvements or any services required in the
12 construction of a public improvement to a resident of that
13 state.

14 EXPLANATION

15 The bill provides for preferential treatment of state
16 residents in the award of contracts for public improvements
17 where the resident is competing with a nonresident who is
18 provided preferential treatment in the nonresident's state
19 of residence. The bill takes effect July 1 following
20 enactment.

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PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED 1983 UNEMPLOYMENT
COMPENSATION SUBCOMMITTEE BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act amending Iowa's unemployment compensation law by
2 limiting the waiver of certain requirements in job
3 bumping situations, by switching the burden of proof
4 back to the employee in certain cases, by authorizing
5 recomputation of employer rates in certain overpayment
6 cases, by crediting certain earned interest to the
7 temporary emergency surcharge fund, by annually trans-
8 ferring certain amounts from the special employment
9 security contingency fund to the temporary emergency
10 surcharge fund, and by providing for contribution re-
11 funds in overpayment cases.

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

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1 Section 1. Section 96.4, subsection 3, Code Supplement
2 1983, is amended to read as follows:

3 3. The individual is able to work, is available for work,
4 and is earnestly and actively seeking work. ~~The provision~~
5 ~~of this~~ This subsection shall be is waived if the individual
6 is deemed temporarily unemployed as defined in section 96.19,
7 subsection 9, paragraph "c" ~~et~~. The work search requirements
8 of this subsection and the disqualification requirement for
9 failure to apply for, or to accept suitable work of section
10 96.5, subsection 3 are waived if the individual is not
11 disqualified for benefits under section 96.5, subsection 1,
12 paragraph "i".

13 Sec. 2. Section 96.6, subsection 2, Code Supplement 1983,
14 is amended to read as follows:

15 2. INITIAL DETERMINATION. A representative designated
16 by the director shall promptly notify all interested parties
17 to the claim of ~~the~~ its filing ~~thereof~~, and the parties shall
18 have ten days from the date of mailing the notice of the
19 filing of ~~said~~ the claim by ordinary mail to the last known
20 address to protest payment of benefits to ~~said~~ the claimant.
21 The representative shall promptly examine the claim and any
22 protest ~~thereof~~ to it and, on the basis of the facts found
23 by the representative, shall determine whether or not ~~such~~
24 the claim is valid, the week with respect to which benefits
25 shall commence, the weekly benefit amount payable and ~~the~~
26 its maximum duration ~~thereof~~, and whether any disqualification
27 shall be imposed. The claimant has the burden of proving
28 that the claimant meets the basic eligibility conditions of
29 section 96.4. The employer has the burden of proving that
30 the claimant is disqualified for benefits pursuant to section
31 96.5. However, the claimant has the burden of proving that
32 the claimant is not disqualified for benefits pursuant to
33 section 96.5, subsection 1, paragraphs a through i, and
34 subsection 10. Unless the claimant or other interested party,
35 after notification or within ten calendar days after ~~such~~

1 notification was mailed to the claimant's last known address,
2 files an appeal from ~~such~~ the decision, ~~such~~ the decision
3 ~~shall-be~~ is final and benefits shall be paid or denied in
4 accordance ~~therewith~~ with it. If a hearing officer affirms
5 a decision of the representative, or the appeal board affirms
6 a decision of the hearing officer, allowing benefits, ~~such~~
7 the benefits shall be paid regardless of any appeal which
8 ~~may~~ is thereafter ~~be~~ taken, but if ~~such~~ the decision is finally
9 reversed, no employer's account shall be charged with benefits
10 so paid.

11 Sec. 3. Section 96.7, subsection 3, paragraph e, unnumbered
12 paragraph 2, Code Supplement 1983, is amended to read as
13 follows:

14 If an employer's account ~~is~~ has been charged with benefits
15 ~~in-a-calendar-quarter-prior-to-the-rate-computation-date~~ as
16 the result of a decision allowing benefits and the decision
17 is reversed ~~after-the-rate-computation-date~~, the employer
18 may appeal, within thirty days from the date of the next
19 contribution rate notice, for a recomputation of the rate.
20 The department shall remove the benefit charges from the rate
21 computation, recompute the contribution rate, and notify the
22 employer of the recomputed contribution rate.

23 Sec. 4. Section 96.7, subsection 15, unnumbered paragraph
24 2, Code 1983, is amended to read as follows:

25 A special fund to be known as the temporary emergency ~~tax~~
26 surcharge fund is created in the state treasury. The special
27 fund is separate and distinct from the unemployment compensa-
28 tion trust fund. All contributions collected from the
29 temporary emergency ~~tax~~ surcharge shall be deposited in the
30 special fund. The special fund shall be used only to pay
31 interest accruing on advance moneys received from the federal
32 government for the payment of unemployment compensation
33 benefits. Interest earned upon moneys in the special fund
34 shall be deposited in and credited to the special fund.

35 Sec. 5. Section 96.13, subsection 3, unnumbered para-

1 graph 1, Code 1983, is amended to read as follows:

2 There is ~~hereby~~ created in the state treasury a special
3 fund to be known as the special employment security contingency
4 fund. All interest, fines, and penalties, regardless of when
5 ~~the same~~ they become payable, collected from employers under
6 ~~the provisions of~~ section 96.14 subsequent to July 1, 1970,
7 shall be paid into this fund. ~~Said~~ The moneys shall not be
8 expended or available for expenditure in any manner which
9 would permit their substitution for federal funds which would
10 in the absence of ~~said~~ the moneys be available to finance
11 expenditures for the administration of the employment security
12 law. ~~Nothing in this~~ This section ~~shall~~ does not prevent
13 ~~said~~ the moneys from being used as a revolving fund to cover
14 expenditures for which federal funds have been duly requested
15 but not yet received, subject to the charging of ~~such~~ the
16 expenditures against ~~such~~ the funds when received. ~~Said~~ The
17 fund may be used for the payment of costs of administration
18 which are found not to have been properly and validly
19 chargeable against federal grants or other funds, received
20 for or in the employment security administration fund. The
21 moneys in this fund are ~~hereby~~ specifically made available
22 to replace, within a reasonable time, any moneys received
23 by this state in the form of grants from the federal government
24 for administrative expenses which because of any action or
25 contingency have been expended for purposes other than, or
26 in excess of, those necessary for the proper administration
27 of the employment security law. All moneys in the special
28 employment security contingency fund shall be deposited,
29 administered, and disbursed in the same manner and under the
30 same conditions and requirements as are provided by law for
31 other special funds in the state treasury. However, interest
32 earned upon moneys in the special employment security
33 contingency fund shall be deposited in and credited to the
34 temporary emergency surcharge fund created under section 96.7,
35 subsection 15.

1 Sec. 6. Section 96.13, subsection 3, unnumbered paragraph
2 3, Code 1983, is amended to read as follows:

3 Balances to the credit of the special employment security
4 contingency fund shall not lapse at any time but shall con-
5 tinuously be available to the department for expenditures
6 consistent with this subsection. However, the department
7 shall not expend more than fifty thousand dollars from the
8 fund in a state fiscal year beginning July 1 and ending June
9 30. After the end of a state fiscal year the treasurer of
10 state shall promptly transfer the entire amount in excess
11 of that portion of the fifty thousand dollars, which the
12 department has expended or obligated for the preceding state
13 fiscal year, to the temporary emergency surcharge fund, but
14 if the treasurer of state determines that the department does
15 not have and will not on September 30 have an outstanding
16 balance of interest accrued on advance moneys received from
17 the federal government for the payment of unemployment
18 compensation benefits, the treasurer of state shall instead
19 promptly transfer the entire excess amount to the unemployment
20 trust fund established in section 96.9.

21 Sec. 7. Section 96.14, subsection 5, Code 1983, is amended
22 to read as follows:

23 5. REFUNDS, COMPROMISES AND SETTLEMENTS. ~~in-any-case~~
24 ~~in-which~~ If the department finds that an employer has paid
25 contributions or interest ~~thereon~~ on contributions, which
26 have been erroneously paid or which have been paid solely
27 due to overpayments initially charged against but later removed
28 from an employer's account, and ~~who~~ the employer has filed
29 an application for adjustment ~~thereof~~, the department shall
30 make ~~such~~ an adjustment, compromise, or settlement, and make
31 ~~such~~, at the employer's option, shall either refund of
32 ~~erroneous~~ the payments ~~as-it-finds-just-and-equitable-in-the~~
33 premises or treat the payments as voluntary contributions
34 with no limitation on the payments' effects on the employer's
35 contribution rate. Refunds so made shall be charged to the

1 fund to which the ~~erroneous~~ collections have been credited,
2 and shall be paid to the claimant without interest. Any A
3 claim for ~~such~~ refund shall be made within three years from
4 the date of payment. For like cause, adjustments, compromises
5 or refunds may be made by the department on its own initiative.
6 ~~In any case in which~~ If the department finds that the
7 contribution that has been assessed against an employer is
8 of doubtful collectibility or may not be collected in full,
9 the department may institute a proceeding in the district
10 court in the county in which the ~~enterprise~~ employer against
11 which ~~such~~ the tax is levied is located, requesting authority
12 to compromise ~~such~~ the contribution. Notice of the filing
13 of ~~such~~ an application shall be given to the interested parties
14 as the court may prescribe. The court upon ~~such~~ hearing shall
15 ~~have power to~~ may authorize the department to compromise and
16 settle its claim for ~~such~~ the contribution and shall fix the
17 amount to be received by the department in full settlement
18 of ~~such~~ the claim and shall authorize the release of the
19 department's lien for ~~such~~ the contribution.

20 Sec. 8. APPLICATION. Notwithstanding the requirement
21 in section 3 of this Act that the recomputation appeal be
22 made within thirty days from the date of the next contribution
23 rate notice, an employer may appeal for a recomputation of
24 contribution rates for calendar year 1983 or 1984, or both,
25 within thirty days from the date of the first contribution
26 rate notice issued on or after the effective date of this
27 Act. Section 7 of this Act applies to claims for the
28 adjustment of contributions or interest on contributions
29 paid within the three years immediately preceding the date
30 of the claim for adjustment.

31 EXPLANATION

32 Section 1 of this Act abolishes, in job bumping situations,
33 the blanket waiver of the able, available, and job search
34 requirements. A limited waiver is substituted which waives
35 the job search requirements and the disqualification

1 requirement for failure to apply for, or to accept suitable
2 work.

3 Section 2 provides an exception to the general rule that
4 an employer has the burden to prove that an employee is dis-
5 qualified for unemployment compensation benefits. Under the
6 provision the employer would still have the burden to prove
7 a disqualification for the following reasons: (1) due to
8 a voluntary quit without good cause attributable to the
9 employer; (2) due to misconduct; (3) due to a failure to apply
10 for, or accept suitable work; (4) due to involvement in a
11 labor dispute; (5) due to the receipt of other compensation,
12 benefits from another state, or vacation pay; or (6) due to
13 seasonal athletic employment. However, the employee would
14 have the burden to prove in voluntary quit cases, that the
15 employee is not disqualified because the employee did the
16 following: (1) accepted other or better employment; (2) was
17 knowingly temporarily employed; (3) quit temporarily to care
18 for an ill family member; (4) quit temporarily due to illness,
19 injury, or pregnancy upon the advice of a physician; (5) quit
20 temporarily to take a family member to a different climate
21 upon the advice of a physician; (6) quit temporarily due to
22 compelling personal reasons; (7) quit but requalified by
23 earning ten times the individual's weekly benefit amount;
24 or (8) quit rather than bump a fellow employee. The employee
25 also has the burden to prove that the employee is not
26 disqualified due to the employee's status as an alien not
27 entitled to work or reside in the United States.

28 Section 3 authorizes an appeal for recomputation of an
29 employer's contribution rate after removal of charges against
30 the employer's account due to the determination of an
31 overpayment. The appeal must be made within thirty days of
32 the first contribution rate notice dated after the removal
33 of the charges.

34 Section 4 allows interest earned on moneys in the temporary
35 emergency surcharge fund, which is used to pay interest owed

1 on federal loans, to be kept in the fund rather than
2 transferred to the general fund of the state.

3 Section 5 credits interest earned on moneys in the penalty
4 and interest fund to the temporary emergency surcharge fund
5 rather than to the general fund of the state.

6 Section 6 limits annual expenditures from the penalty and
7 interest fund to \$50,000, and transfers all unobligated or
8 unexpended moneys in the fund at the end of the state fiscal
9 year to the temporary emergency surcharge fund, or if no
10 federal interest is owing to the unemployment trust fund.

11 Section 7 requires the department of job service, at the
12 employer's option, to either refund certain contributions
13 paid solely due to overpayments initially charged against
14 but later removed from an employer's account or to treat the
15 contributions as voluntary contributions.

16 Section 8 provides that a recomputation appeal under section
17 3 can be made after July, 1984 for both calendar years 1983
18 and 1984 due to the determination of an overpayment and that
19 a claim for an adjustment of contributions owed under section
20 7 can apply to any contributions paid within the three years
21 immediately preceding the date of the claim for adjustment.

22 The bill takes effect July 1 following enactment.

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