

FEB 14 1973

HOUSE FILE 209

Place On Calendar

Sen. Judiciary 3/1, Pass 4/24

By COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

House File 209
Coleman, Chairman
Shaw
Riley

Passed House, Date 2-27-73 (440) Passed Senate, Date 5-7-73 (1120)

Vote: Ayes 84 Nays 0 Vote: Ayes 42 Nays 0

Approved 5-24-73

*As amended by Senate 5-11-73 (1271)
79-0*

A BILL FOR

1 An Act correcting erroneous, inconsistent and obsolete
2 sections of the Code of Iowa.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. Section four point one (4.1), subsection twenty-
2 six (26), Code 1973, is amended to read as follows:

3 26. POPULATION. The word "population", where used in
4 this Code or any statute ~~hereafter-passed~~, shall be taken
5 to be that as shown by the last preceding national census,
6 unless otherwise specially provided. However, the popula-
7 tion figure disclosed for any city or town as the result of
8 a special federal census as modified as the result of
9 consolidation or annexation in the manner provided in sec-
10 tions 312.3 and ~~423.50~~ one hundred twenty-three point fifty-
11 three (123.53) of the Code, shall be considered for no other
12 purposes than the application of sections ~~423.50~~ one hundred
13 twenty-three point fifty-three (123.53) of the Code, 312.3
14 and 405.1.

15 Sec. 2. Section fourteen point six (14.6), unnumbered
16 paragraph four (4) of subsection five (5), Code 1973, is
17 amended to read as follows:

18 The code editor may provide cumulative, semiannual sup-
19 plements for insertion in the latest published volume ~~and~~
20 ~~a-place-shall-be-provided-in-the-binding-of-said-volume-for~~
21 ~~insertion-of-such-supplements.~~

22 Sec. 3. Section fourteen point twelve (14.12), subsec-
23 tion nine (9), Code 1973, is amended to read as follows:

24 9. The Code shall be printed upon a good quality of pa-
25 per in a manner specified by the Code editor in consultation
26 with the legislative council according to the recommendations
27 prepared by the ~~state-printing-board~~ superintendent of print-
28 ing.

29 Sec. 4. Section seventeen point three (17.3), subsections
30 seven (7) and fifteen (15), Code 1973, are amended to read
31 as follows:

32 7. Printing-board Superintendent of printing.

33 15. Superintendent-of-public-buildings-and-grounds
34 Department of general services.

35 Sec. 5. Section seventeen point fourteen (17.14), un-

1 numbered paragraph one (1), Code 1973, is amended to read
2 as follows:

3 The annual and biennial reports shall be published, printed,
4 and bound in such number as the ~~board-of-printing~~ superin-
5 tendent of printing may order. The officials and heads of
6 departments shall furnish the ~~printing-board~~ superintendent
7 with information necessary to determine the number of copies
8 to be printed.

9 Sec. 6. Section seventeen point twenty-three (17.23),
10 Code 1973, is amended to read as follows:

11 17.23 PRICE OF DEPARTMENTAL REPORTS. The state ~~printing~~
12 ~~board~~ superintendent of printing shall establish and fix a
13 selling price for all other state departmental reports and
14 any other state publications it may designate, which price
15 per volume shall be the amount charged any person, other than
16 public officials, who may desire to purchase the same; such
17 price shall cover the cost of printing and distribution.
18 The ~~state-printing-board~~ superintendent may distribute gratis
19 to such state or local public officials, or offices, ~~it~~ he
20 may deem necessary, copies of departmental annual reports.

21 Sec. 7. Section seventeen point twenty-five (17.25), Code
22 1973, is amended to read as follows:

23 17.25 NEW EDITIONS. New editions of the Code or supple-
24 ments thereto, book of annotations, and reports of the su-
25 preme court may be published by the ~~printing-board~~ super-
26 intendent of printing when the supply on hand of the last
27 edition becomes exhausted and when a new edition is necessary
28 in order to meet the demand.

29 Sec. 8. Section seventeen point twenty-six (17.26), Code
30 1973, is amended to read as follows:

31 17.26 NUMBER PRINTED. The number of each edition of the
32 Code or supplements thereto, tables of corresponding sec-
33 tions, and session laws, ~~and annotations, and reports of supreme~~
34 ~~court~~ shall be determined by the ~~printing-board~~ superintendent
35 of printing unless expressly determined by presiding officers

1 of the general assembly.

2 Sec. 9. Section seventeen point twenty-seven (17.27),
3 Code 1973, is amended to read as follows:

4 17.27 OTHER NECESSARY PUBLICATIONS--WHEN NECESSARY TO
5 SELL. There may be published other miscellaneous documents,
6 reports, bulletins, books, and booklets that are needed for
7 the use of the various officials and departments of state,
8 or are of value for the information of the general assembly
9 or the public, in form and number most useful and convenient,
10 to be determined by the ~~printing-board~~ superintendent of
11 printing.

12 When such publications paid for by public funds furnished
13 by the state, contain reprints of statutes or departmental
14 rules, or both, they shall be sold and distributed at cost
15 by the department ordering same if the cost per publication
16 is one dollar or more, unless a central library or depository
17 is established by the budget and financial control committee.
18 Such publications shall be obtained from the superintendent
19 of printing on requisition by the department and the selling
20 price, if any, shall be determined by the ~~printing-board~~
21 superintendent by dividing the total cost of printing, paper
22 and binding by the number printed. Said price shall be set
23 at the nearest multiple of ten to the quotient thus obtained.
24 Distribution of such publications shall be made by the
25 superintendent ~~of-printing~~ gratis to public officers,
26 purchasers of licenses from state departments required by
27 statute, and departments. Funds from the sale of such pub-
28 lications shall be deposited monthly in the general fund of
29 the state.

30 Sec. 10. Section twenty-four point fourteen (24.14), Code
31 1973, is amended to read as follows:

32 24.14 TAX LIMITED. No greater tax than that so entered
33 upon the record shall be levied or collected for the munici-
34 pality proposing such tax for the purpose or purposes indi-
35 cated; and thereafter no greater expenditure of public money

1 shall be made for any specific purpose than the amount esti-
2 mated and appropriated therefor, except as provided in sec-
3 tions 24.6, 24.15 and ~~subsection 4 of~~ section 343.11, sub-
4 section four (4) of the Code. All budgets set up in accordance
5 with the statutes shall take such funds, allocations made
6 by sections ~~423-50~~ one hundred twenty-three point fifty-three
7 (123.53) of the Code, 324.79 and 405.11, into account, and
8 all such funds, regardless of their source, shall be con-
9 sidered in preparing the budget, all as is provided in this
10 chapter.

11 Sec. 11. Section twenty-six point six (26.6), Code 1973,
12 is amended to read as follows:

13 26.6 POPULATION OF COUNTIES, TOWNSHIPS, CITIES, AND TOWNS.
14 Whenever the population of any county, township, city, or
15 town is referred to in any law of this state, it shall be
16 determined by the last certified, or certified and published,
17 official census unless otherwise provided. However, the popu-
18 lation figure disclosed for any city or town as the result
19 of a special federal census as modified as the result of
20 consolidation or annexation in the manner provided in sections
21 312.37 and ~~423-50~~ one hundred twenty-three point fifty-three
22 (123.53) of the Code, shall be considered for no other purposes
23 than the application of sections ~~423-50~~ one hundred twenty-
24 three point fifty-three (123.53) of the Code, 312.3 and 405.1.
25 Whenever a special federal census is ~~hereafter~~ taken by any
26 city or town, the mayor and council shall certify the said
27 census as soon as possible to the secretary of state and to
28 the treasurer of state as otherwise herein provided, and
29 failing to do so, the treasurer of state shall, after six
30 months from the date of said special census, withhold
31 allocation of such moneys from the city, and continue to do
32 so until such time as certification by said mayor and council
33 is made, or until the next decennial federal census. If there
34 be a difference between the original certified record in the
35 office of the secretary of state and the published census

1 the former shall prevail.

2 Sec. 12. Section twenty-nine A point seventy-four (29A.74),
3 unnumbered paragraph one (1), Code 1973, is amended to read
4 as follows:

5 Except as otherwise provided in this chapter no agency
6 created by a power of attorney in writing given by a prin-
7 cipal who is at the time of execution, or who after execut-
8 ing such power of attorney becomes, either a member of the
9 armed forces of the United States, or a person serving as
10 a merchant seaman outside the limits of the United States
11 included within the ~~forty-eight~~ fifty states and the District
12 of Columbia, or a person outside said limits by permission,
13 assignment or direction of any department, in connection with
14 any activity pertaining to or connected with the prosecution
15 of any war in which the United States is then engaged, shall
16 be revoked or terminated by the death of the principal, as
17 to the agent or other person who, without actual knowledge
18 or actual notice of the death of the principal, shall have
19 acted or shall act, in good faith, under or in reliance up-
20 on such power of attorney or agency, and any action so taken,
21 unless otherwise invalid or unenforceable, shall be binding
22 on the heirs, devisees, legatees, or personal representa-
23 tives of the principal.

24 Sec. 13. Section fifty point twenty-five (50.25), Code
25 1973, is amended by striking the section and inserting in
26 lieu thereof the following:

27 50.25 ABSTRACT OF VOTES. The abstract of the votes for
28 each of the following classes shall be made on a different
29 sheet:

- 30 1. President and vice-president of the United States.
- 31 2. Senator in the Congress of the United States.
- 32 3. Representative in the Congress of the United States.
- 33 4. Governor and lieutenant governor.
- 34 5. A state officer not otherwise provided for.
- 35 6. Senator or representative in the general assembly by

1 districts.

2 7. A county officer.

3 Sec. 14. Section fifty point thirty (50.30), Code 1973,
4 is amended by striking the section and inserting in lieu
5 thereof the following:

6 50.30 ABSTRACTS FORWARDED TO SECRETARY OF STATE. The
7 auditor shall, within ten days after the election, forward
8 to the secretary of state, in separate, securely sealed en-
9 velopes, one of the said duplicate abstracts of votes for
10 each of the following offices:

- 11 1. President and vice-president of the United States.
- 12 2. Senator in Congress.
- 13 3. Representative in Congress.
- 14 4. Governor and lieutenant governor.
- 15 5. Senator or representative in the general assembly by
16 districts.
- 17 6. A state officer not otherwise specified above.

18 Sec. 15. Section sixty-nine point eight (69.8), subsec-
19 tion three (3), Code 1973, is amended to read as follows:

20 3. SUPREME COURT APPOINTEES. In the offices of clerk
21 and ~~reporter-of-the-supreme-court~~ code editor, by the supreme
22 court.

23 Sec. 16. Section one hundred ten point one (110.1), lines
24 seventy-six (76) through seventy-nine (79), Code 1973, are
25 amended to read as follows:

26 All nets not otherwise provided for,
27 each net--

| | | |
|----|---|-----------------|
| 28 | Legal residents | 1.00 |
| 29 | Nonresidents-or-aliens | 3.00 |

30 Sec. 17. Section two hundred thirty-two point fifty-one
31 (232.51), unnumbered paragraph two (2), Code 1973, is amended
32 to read as follows:

33 Any such sums ordered by the court shall be a judgment
34 against each of the parents and a lien as provided in sec-
35 tion 624.23. ~~If-juvenile-court-jurisdiction-has-been-logged~~

1 ~~in the municipal court, all such orders and judgments made~~
2 ~~by that court shall be transferred by the clerk thereof to~~
3 ~~the district court as provided in section 602.43.~~ If all
4 or any part of the sums that the parents are ordered to pay,
5 is subsequently paid by the county, the judgment and lien
6 shall thereafter be against each of the parents in favor of
7 the county to the extent of such payments.

8 Sec. 18. Section three hundred twenty-four point seventy-
9 seven (324.77), Code 1973, is amended to read as follows:

10 324.77 MONEYS DEPOSITED IN TREASURY--REFUNDS. All fees,
11 taxes, interest, and penalties imposed under this chapter
12 must be paid to the department of revenue in the form of re-
13 mittances payable to the treasurer of state, and the depart-
14 ment of revenue shall transmit each payment daily to the
15 treasurer of state. Such payments shall be deposited by the
16 treasurer of state in a fund, hereby created, within the state
17 treasury which shall be known as the "motor vehicle fuel tax
18 fund", the net proceeds of which fund, after deductions by
19 lawful transfers and refunds, shall be known as the "motor
20 vehicle fuel tax fund". The department of revenue shall
21 certify monthly to the state comptroller amounts of refunds
22 of tax approved or determined by the department during each
23 month, and the state comptroller shall draw warrants in such
24 amounts on the motor vehicle fuel tax fund and transmit them.
25 There is hereby appropriated out of the money received under
26 the provisions of this chapter and deposited in the motor
27 vehicle fuel tax fund sufficient funds to pay such refunds
28 as may be authorized in this chapter.

29 The general assembly may appropriate from the motor fuel
30 tax fund such amounts as it determines are necessary for ad-
31 ministrative expenses. Allocations and transfers of fees,
32 taxes, interest, and penalties imposed under this chapter,
33 pursuant to any provision of the Code, shall be made from
34 the motor fuel tax fund.

35 Sec. 19. Section three hundred twenty-four point eighty-

1 four (324.84), unnumbered paragraph one (1), Code 1973, is
2 amended to read as follows:

3 Pursuant to section 324.83, there shall be transferred
4 from the motor ~~vehiele~~ fuel tax fund to the marine fuel tax
5 fund a portion of moneys collected under this chapter which
6 is attributable to motor fuel used in watercraft which por-
7 tion shall be computed as follows:

8 Sec. 20. Section three hundred thirty-six point three
9 (336.3), Code 1973, is amended to read as follows:

10 336.3 ABSENCE OF COUNTY ATTORNEY--SUBSTITUTE--COMPENSA-
11 TION. In case of absence, sickness, or disability of the
12 county attorney and his deputies, the court before whom it
13 is his duty to appear, and in which there may be business
14 requiring his attention, may appoint an attorney to act as
15 county attorney, by order to be entered upon the records of
16 the court, and he shall receive out of the compensation al-
17 lowed to the county attorney, ~~{when-such-appearance-is-such~~
18 ~~sum-as-the-board-of-supervisors-shall-determine-to-be-reason-~~
19 ~~able-for-the-services-rendered,-and,-when-it-is-before-a-court~~
20 ~~of-record,}~~ such sum as the judge shall determine to be a
21 reasonable compensation, and, while acting under said ap-
22 pointment, he shall have all the authority and be subject
23 to all the responsibilities herein conferred upon county
24 attorneys.

25 Sec. 21. Section six hundred one G point four (601G.4),
26 Code 1973, is amended to read as follows:

27 601G.4 CITIZEN OF UNITED STATES AND RESIDENT OF IOWA.
28 The citizens' aide shall be a citizen of the United States
29 and a resident of the state of Iowa, and shall be qualified
30 to analyze problems of law, administration and public policy.

31 Sec. 22. Section seven hundred seventy-nine point eleven
32 (779.11), unnumbered paragraph one (1), Code 1973, is amended
33 to read as follows:

34 If the offense charged in the indictment or information
35 is or may be punishable with ~~death-or~~ imprisonment for life,

1 the state and defendant shall each have the right to peremp-
2 torily challenge eight jurors and shall strike two jurors.

3 Sec. 23. Section seven hundred eighty point two (780.2),
4 Code 1973, is amended to read as follows:

5 780.2 CONTINUANCES. The provisions of the ~~Code~~ rules
6 of civil procedure relative to the continuances of the trial
7 of civil causes shall apply to the continuance of criminal
8 actions, but no judgment for costs shall be rendered against
9 a defendant on account thereof, except as in this Code other-
10 wise provided.

11 Sec. 24. Section four hundred twenty-six A point one
12 (426A.1), Code 1973, is amended to read as follows:

13 426A.1 MILITARY SERVICE TAX CREDIT FUND. There is here-
14 by appropriated from any moneys in the state treasury not
15 otherwise appropriated, the sum of eight hundred thousand
16 dollars to establish a fund to be known as "the military
17 service tax credit fund", in which fund shall also be in-
18 cluded the amounts credited to the military service tax fund
19 provided by subsection 7 of section ~~423-50~~ one hundred twenty-
20 three point fifty-three (123.53) of the Code.

21 Sec. 25. Section forty-eight point nineteen (48.19),
22 Code 1973, is repealed.

23 EXPLANATION

24 Sections 1, 3, 4, 5, 6, 7, 10, and 11 of this bill cor-
25 rect erroneous references.

26 Section 2 -- the size of published supplements to the
27 I.D.R. makes this provision obsolete.

28 Section 8 strikes obsolete provisions and corrects an
29 erroneous reference.

30 Section 9 corrects erroneous references.

31 Section 12 updates a reference.

32 Section 13 revises Section 50.25 to conform with recent
33 changes.

34 Section 14 revises Section 50.30 to conform with recent
35 changes.

1 Section 15 revises Section 69.8 to conform with recent
2 changes.

3 Section 16 deletes a misplaced item that also appears
4 elsewhere in its proper place.

5 Section 17 refers to a court that will be absorbed into
6 the district court system on July first.

7 Section 18 revises Section 324.77 to conform with the fact
8 that the tax is not placed on "motor vehicle fuel" but is
9 on "motor fuel". If the money is placed directly in a "mo-
10 tor vehicle fuel tax fund" the Constitution would prohibit
11 any part to be used for anything but road use.

12 Section 19 is amended for the same reason as is Section
13 18.

14 Section 20 -- when the words "Justice of peace ..." were
15 removed from Section 336.3 by an earlier Act, a portion of
16 the remainder was rendered meaningless.

17 Section 21 -- the purpose of this amendment is obvious.

18 Section 22 removes obsolete words.

19 Section 23 makes a reference correction.

20 Section 24 makes a reference correction.

21 Section 25 repeals a section now obsolete.

22

23

24

25

26

27

28

29

30

31

32

33

34

35

S--249

1 Amend House File 209, page 10, by adding a new section
as
2 follows:
3 Sec. 26. Section twenty-three point one (23.1), Code
1973,
4 unnumbered paragraph two (2), is amended to read as follows:
5 The word "municipality" as used in this chapter shall
mean
6 county, except in the exercise of its power to make
contracts
7 for secondary road improvements, city, town, township,
school
8 corporation, state fair board, state board of regents, and
9 ~~state board-of-control~~ department of social services.

S--249 Filed - *Adopted 5/7*
March 19, 1973

By RILEY

S--264

1 Amend House File 209, page 9, by striking lines 8
2 through 24 and inserting in lieu thereof the following:
3 Sec. 20. Section three hundred thirty-six point
three
4 (336.3), Code 1973, is amended by striking the section
and
5 inserting in lieu thereof the following:
6 336.3 ABSENCE OF COUNTY ATTORNEY--SUBSTITUTE--
COMPENSATION.
7 In case of absence, sickness, or disability of the county
attorney
8 and his deputies, the court before whom it is his duty
to appear,
9 and in which there may be business requiring his
attention, may
10 appoint an attorney at act as county attorney, by order
to be
11 entered upon the records of the court, and he shall
receive out
12 of the compensation allowed to the county attorney, in
proceedings
13 before a judicial magistrate, such sum as the board of
supervisors
14 shall determine to be reasonable for the services
rendered, and,
15 if in proceedings before a district associate judge or a
district
16 judge, such sum as the judge shall determine to be
reasonable
17 compensation, and, while acting under said appointment,
he shall
18 have all the authority and be subject to all the
responsibilities
19 herein conferred upon county attorneys.

S--264 Filed - *Adopted as amended by* By RILEY
March 20, 1973 *S-273 5/7*

S-273

1 Amend the Riley Amendment S-264, to House File 209, filed
2 March 20, 1973 as follows:
3 1. Line 10 by striking the word "at" and inserting in lieu
4 thereof the word "to".

S-273 Filed - *Adopted 5/7*
March 21, 1973

By RILEY

S-323

1 Amend House File 209 by adding on page 10, after
2 line 20, the following new section and renumbering the
3 remaining section.
4 Sec. _____. Section six hundred twenty-three point
5 one (623.1), Code 1973, is amended to read as follows:
6 623.1 JURY FEES IN CRIMINAL ACTIONS. Where the
7 place of trial in any criminal action is changed to any
8 county other than that in which the same was properly
9 commenced, where the trial thereof takes place at a
10 regular ~~term~~ session and occupies more than one calendar
11 day, the judge trying it shall certify the number of days
12 so occupied, and the county in which the action was
13 originally commenced shall be liable to the county where
14 the same is tried for the sum of three dollars per day,
15 for each jurymen engaged in the trial thereof.

S-323 Filed - *Adopted 5/7*
March 29, 1973

By COLEMAN

SENATE AMENDMENT TO HOUSE FILE 209

1 Amend House File 209, as passed by the House, as follows:

2 1. Page 9, by striking lines 8 through 24 and inserting in
3 lieu thereof the following:

4 Sec. 20. Section three hundred thirty-six point three
5 (336.3), Code 1973, is amended by striking the section and
6 inserting in lieu thereof the following:

7 336.3 ABSENCE OF COUNTY ATTORNEY--SUBSTITUTE--COMPENSATION.

8 In case of absence, sickness, or disability of the county attorney
9 and his deputies, the court before whom it is his duty to appear,
10 and in which there may be business requiring his attention, may
11 appoint an attorney to act as county attorney, by order to be
12 entered upon the records of the court, and he shall receive out
13 of the compensation allowed to the county attorney, in proceed-
14 ings before a judicial magistrate, such sum as the board of
15 supervisors shall determine to be reasonable for the services
16 rendered, and, if in proceedings before a district associate
17 judge or a district judge, such sum as the judge shall determine
18 to be a reasonable compensation, and, while acting under said
19 appointment, he shall have all the authority and be subject to
20 all the responsibilities herein conferred upon county attorneys.

21 2. Page 10, by adding after line 20 the following new section:

22 Sec. _____. Section six hundred twenty-three point one
23 (623.1), Code 1973, is amended to read as follows:

24 623.1 JURY FEES IN CRIMINAL ACTIONS. Where the place
25 of trial in any criminal action is changed to any county other
26 than that in which the same was properly commenced, where
27 the trial thereof takes place at a regular term session
28 and occupies more than one calendar day, the judge trying
29 it shall certify the number of days so occupied, and the
30 county in which the action was originally commenced shall
31 be liable to the county where the same is tried for the sum
32 of three dollars per day, for each jurymen engaged in the
33 trial thereof.

34 3. Page 10, by adding after line 22, the following new
35 section:

36 Sec. _____. Section twenty-three point one (23.1),
37 Code 1973, unnumbered paragraph two (2), is amended to read
38 as follows:

39 The word "municipality" as used in this chapter shall
40 mean county, except in the exercise of its power to make
41 contracts for secondary road improvements, city, town, town-
42 ship, school corporation, state fair board, state board of
43 regents, and state ~~board-of-control~~ department of social
44 services.

45 4. By renumbering the sections to conform with this amendment.

Received from the Senate
May 9, 1973

Lawson concurred 5/11/73