

(p. 500) 3-9-94 House - Labor & Ind. Rel.
(p. 642) 3-15-94 House - Do Pass

FILED MAR 3 1994

SENATE FILE 2261
BY COMMITTEE ON BUSINESS AND
LABOR RELATIONS

(SUCCESSOR TO SSB 2165)

Passed Senate, Date 3/8/94 (p. 563) Passed House, Date 4-5-94 (p. 1145)
Vote: Ayes 43 Nays 0 Vote: Ayes 100 Nays 0
Approved April 13, 1994

A BILL FOR

1 An Act relating to employment services by eliminating certain
2 unemployment benefit charges, requiring participation in
3 reemployment services for certain individuals receiving
4 unemployment benefits, making the voluntary shared work
5 program permanent, and making changes to the workers'
6 compensation laws.

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

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

SF 2261

1 Section 1. Section 87.1, unnumbered paragraph 1, Code
2 1993, is amended to read as follows:

3 Every employer subject to the provisions of this and
4 chapters 85, 85A, 85B, and 86, unless relieved therefrom as
5 hereinafter provided, shall insure the employer's liability
6 thereunder in some corporation, association, or organization
7 approved by the commissioner of insurance.

8 Sec. 2. Section 87.2, Code 1993, is amended to read as
9 follows:

10 87.2 NOTICE OF FAILURE TO INSURE.

11 Any An employer who fails to insure the employer's
12 liability as required herein by this chapter shall keep posted
13 a sign of sufficient size and so placed as to be easily seen
14 by the employer's employees in the immediate vicinity where
15 working, which sign shall read as follows:

16 NOTICE TO EMPLOYEES

17 You are hereby notified that the undersigned employer has
18 failed to insure the employer's liability to pay compensation
19 as required by law, and that because of such failure the
20 employer is liable to the employer's employees in damages for
21 personal injuries sustained by the employer's employees ~~in the~~
22 ~~same manner and to the same extent as though the employer had~~
23 ~~legally exercised the employer's right to reject the~~
24 ~~provisions relating to compensation.~~

25 (Signed)

26 Any An employer coming under the provisions of this and
27 chapters 85, 85A, 85B, and 86 who fails to comply with this
28 section or to post and keep the above notice in the manner and
29 form ~~herein~~ required, shall be guilty of a simple misdemeanor.

30 Sec. 3. NEW SECTION. 87.14A INSURANCE OR BOND REQUIRED.

31 An employer subject to this chapter and chapters 85, 85A,
32 85B, and 86 shall not engage in business without first
33 obtaining insurance covering compensation benefits or
34 obtaining relief from insurance as provided in this chapter or
35 furnishing a bond pursuant to section 87.16. A person who

1 willfully and knowingly violates this section is guilty of a
2 class "D" felony.

3 Sec. 4. Section 87.15, Code 1993, is amended by striking
4 the section and inserting in lieu thereof the following:

5 87.15 INJUNCTIONS.

6 If a violation of section 87.14A has been committed or
7 there is reason to believe a violation of section 87.14A is
8 about to be committed, the attorney general or the county
9 attorney from the county in which a violation has occurred or
10 is about to occur shall, or any person may, bring an action to
11 enjoin such person from committing the violation and the court
12 or judge before whom the action is brought shall, if the facts
13 warrant, issue a temporary or permanent writ of injunction
14 without bond.

15 Sec. 5. Section 87.16, Code 1993, is amended to read as
16 follows:

17 87.16 BOND IN LIEU OF INSURANCE.

18 Any An employer ~~who has more than five persons engaged in~~
19 ~~hazardous employment, except the employments recited in~~
20 ~~section 85-17 and~~ subject to this chapter and chapters 85,
21 85A, 85B, and 86 who has failed, ~~omitted, and neglected~~ to
22 secure the payment of compensation by carrying insurance or is
23 not relieved ~~therefrom as by the statutes in such cases~~
24 provided from carrying insurance as provided in this chapter,
25 shall furnish a bond approved by the industrial commissioner,
26 as to form and security, conditioned to secure and pay
27 workers' compensation or damages in accordance with the law,
28 such. The bond shall be in such an amount as may be fixed by
29 the industrial commissioner having due regard for the number
30 of employees and considering the industrial experience in such
31 the industry as a class.

32 Sec. 6. Section 96.4, Code 1993, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 7. The individual participates in
35 reemployment services as directed by the division pursuant to

1 a profiling system, established by the division, which
2 identifies individuals who are likely to exhaust benefits and
3 be in need of reemployment services.

4 Sec. 7. Section 96.40, subsection 11, Code 1993, is
5 amended by striking the subsection.

6 Sec. 8. Sections 87.12 and 87.14, Code 1993, are repealed.

7 Sec. 9. 1992 Iowa Acts, chapter 1056, section 3, is
8 repealed.

9 Sec. 10. RELIEF FROM DISASTER-RELATED UNEMPLOYMENT BENEFIT
10 CHARGES TO EMPLOYERS. Notwithstanding section 96.7,
11 subsection 2, an account of an employer shall not be charged
12 with benefits paid to an individual for unemployment that is
13 directly caused by the presidentially declared disasters,
14 numbered 986 and 996, for benefits paid from April 13, 1993,
15 through January 8, 1994, for the purpose of calculating the
16 employer's contribution rate pursuant to criteria established
17 by the division of job service of the department of employment
18 services. This relief from charges for benefits paid from
19 April 13, 1993, through January 8, 1994, does not apply to
20 employers who are required or who have elected to reimburse
21 the fund in lieu of paying contributions or to employers
22 otherwise ineligible for relief under this section pursuant to
23 criteria established by the division of job service.

24 EXPLANATION

25 Sections 1 through 5 and 8 of the bill concern workers'
26 compensation liability insurance requirements for employers.
27 Sections 1 and 2 amend chapter 87 to provide that employers
28 are subject to all current workers' compensation law including
29 the occupational disease and occupational hearing loss
30 chapters of the Code.

31 Section 3 makes it a class "D" felony for any employer
32 subject to the workers' compensation chapters to willfully and
33 knowingly engage in business without having insurance covering
34 compensation, being relieved from carrying the insurance, or
35 posting a bond as required by the industrial commissioner.

1 Section 4 allows the attorney general, the applicable
2 county attorney, or any person to bring an action to obtain an
3 injunction to prohibit employers from violating their
4 obligation to provide compensation insurance or a bond as
5 required by section 3 of this bill. Currently, this provision
6 deals with violations of certain compensation insurance
7 requirements for mines.

8 Section 5 allows the industrial commissioner to require any
9 employer, regardless of the number of employees or the nature
10 of the business, who is not insured or relieved from insurance
11 to post a bond securing payment of the employer's workers'
12 compensation liability. This section provides that the bond
13 secures the liability under chapters 85, 85A, 85B, and 86 as
14 well as any liability for damages. Current law limits the
15 requirement to post bond to employers of more than five
16 persons engaged in hazardous employment.

17 Section 6 of the bill requires certain unemployed
18 individuals to participate in reemployment services in order
19 to receive benefits based on criteria established by the
20 division of job service.

21 Section 7 of the bill makes the voluntary shared work
22 program as provided in section 96.40 permanent by eliminating
23 the subsection repealing the program on February 28, 1995.

24 Section 8 repeals two sections providing that mining is
25 extra hazardous and that compensation insurance for mining is
26 required.

27 Section 9 repeals 1992 Iowa Acts, chapter 1056, section 3,
28 which required the industrial commissioner to adopt rules
29 requiring parties in a dispute for second injury fund benefits
30 to mediate their dispute prior to initiation of a contested
31 case proceeding.

32 Section 10 of the bill eliminates the unemployment benefit
33 charges against contributory employers' accounts for disaster-
34 related benefits paid during the period from April 13, 1993,
35 to January 8, 1994. The division of job service shall

1 establish criteria for eligibility for this relief.

2

3

SENATE FILE 2261
FISCAL NOTE

A fiscal note for Senate File 2261 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 2261 does the following:

1. Makes various changes to the workers' compensation liability insurance requirements for employers.
2. Makes the Voluntary Shared Work Program permanent. This codifies current practice.
3. Eliminates unemployment insurance benefit charges against contributory employer accounts for disaster-related benefits paid by those employers from April 13, 1993, to January 8, 1994.

Assumptions:

1. The only portion of the bill having a fiscal impact is the elimination of flood-related benefit charges.
2. The bill does not impact the Unemployment Trust Fund directly. Instead, the bill will eliminate flood-related benefit charges from individual employer records. This will result in employers avoiding an increase in the unemployment compensation tax rate due to flood-related charges.
3. Approximately \$5 to \$6 million in benefit payments will not be charged to employers impacted by the flood.

Fiscal Impact:

This bill has no impact on the General Fund. The impact to the Unemployment Compensation Trust Fund cannot be estimated, but is expected to be minimal.

Source: Department of Employment Services

(LSB 3264sv, MAS)

FILED MARCH 15, 1994

BY DENNIS PROUTY, FISCAL DIRECTOR

34

35

LSB 3264SV 75

ec/cf/24

Gettings - Chair
Diannetto
Taylor

SSB-2165
Business + Labor Relations
SENATE/HOUSE FILE ^{New} 2261
BY (PROPOSED DEPARTMENT OF
EMPLOYMENT SERVICES BILL)

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

A BILL FOR

1 An Act relating to employment services by eliminating certain
2 unemployment benefit charges, making the voluntary shared work
3 program permanent, and making changes to the workers'
4 compensation laws.

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

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

1 Section 1. Section 87.1, unnumbered paragraph 1, Code
2 1993, is amended to read as follows:

3 Every employer subject to the provisions of this and
4 chapters 85, 85A, 85B, and 86, unless relieved therefrom as
5 hereinafter provided, shall insure the employer's liability
6 thereunder in some corporation, association, or organization
7 approved by the commissioner of insurance.

8 Sec. 2. Section 87.2, Code 1993, is amended to read as
9 follows:

10 87.2 NOTICE OF FAILURE TO INSURE.

11 Any An employer who fails to insure the employer's
12 liability as required ~~herein~~ by this chapter shall keep posted
13 a sign of sufficient size and so placed as to be easily seen
14 by the employer's employees in the immediate vicinity where
15 working, which sign shall read as follows:

16 NOTICE TO EMPLOYEES

17 You are hereby notified that the undersigned employer has
18 failed to insure the employer's liability to pay compensation
19 as required by law, and that because of such failure the
20 employer is liable to the employer's employees in damages for
21 personal injuries sustained by the employer's employees ~~in the~~
22 ~~same-manner-and-to-the-same-extent-as-though-the-employer-had~~
23 ~~legally-exercised-the-employer's-right-to-reject-the~~
24 ~~provisions-relating-to-compensation.~~

25 (Signed)

26 Any An employer coming under the provisions of this and
27 chapters 85, 85A, 85B, and 86 who fails to comply with this
28 section or to post and keep the above notice in the manner and
29 form ~~herein~~ required, shall be guilty of a simple misdemeanor.

30 Sec. 3. NEW SECTION. 87.14A INSURANCE OR BOND REQUIRED.

31 An employer subject to this chapter and chapters 85, 85A,
32 85B, and 86 shall not engage in business without first
33 obtaining insurance covering compensation benefits or
34 obtaining relief from insurance as provided in this chapter or
35 furnishing a bond pursuant to section 87.16. A person who

1 willfully and knowingly violates this section is guilty of a
2 class "D" felony.

3 Sec. 4. Section 87.15, Code 1993, is amended by striking
4 the section and inserting in lieu thereof the following:

5 87.15 INJUNCTIONS.

6 If a violation of section 87.14A has been committed or
7 there is reason to believe a violation of section 87.14A is
8 about to be committed, the attorney general or the county
9 attorney from the county in which a violation has occurred or
10 is about to occur shall, or any person may, bring an action to
11 enjoin such person from committing the violation and the court
12 or judge before whom the action is brought shall, if the facts
13 warrant, issue a temporary or permanent writ of injunction
14 without bond.

15 Sec. 5. Section 87.16, Code 1993, is amended to read as
16 follows:

17 87.16 BOND IN LIEU OF INSURANCE.

18 Any An employer who ~~has more than five persons engaged in~~
19 ~~hazardous employment, except the employments recited in~~
20 ~~section 85-17 and~~ subject to this chapter and chapters 85,
21 85A, 85B, and 86 who has ~~failed, omitted, and neglected~~ to
22 secure the payment of compensation by carrying insurance or is
23 not relieved ~~therefrom as by the statutes in such cases~~
24 provided from carrying insurance as provided in this chapter,
25 shall furnish a bond approved by the industrial commissioner,
26 as to form and security, conditioned to secure and pay
27 workers' compensation or damages in accordance with the law;
28 such. The bond shall be in such an amount as may be fixed by
29 the industrial commissioner having due regard for the number
30 of employees and considering the industrial experience in such
31 the industry as a class.

32 Sec. 6. Section 96.40, subsection 11, Code 1993, is
33 amended by striking the subsection.

34 Sec. 7. Sections 87.12 and 87.14, Code 1993, are repealed.

35 Sec. 8. 1992 Iowa Acts, chapter 1056, section 3, is

1 repealed.

2 Sec. 9. RELIEF FROM DISASTER-RELATED UNEMPLOYMENT BENEFIT
3 CHARGES TO EMPLOYERS. Notwithstanding section 96.7,
4 subsection 2, an account of an employer shall not be charged
5 with benefits paid to an individual for unemployment that is
6 directly caused by the presidentially declared disasters,
7 numbered 986 and 996, for benefits paid from April 13, 1993,
8 through January 8, 1994, for the purpose of calculating the
9 employer's contribution rate pursuant to criteria established
10 by the division of job service of the department of employment
11 services. This relief from charges for benefits paid from
12 April 13, 1993, through January 8, 1994, does not apply to
13 employers who are required or who have elected to reimburse
14 the fund in lieu of paying contributions or to employers
15 otherwise ineligible for relief under this section pursuant to
16 criteria established by the division of job service.

17

EXPLANATION

18 Sections 1 through 5 and 7 of the bill concern workers'
19 compensation liability insurance requirements for employers.
20 Sections 1 and 2 amend chapter 87 to provide that employers
21 are subject to all current workers' compensation law including
22 the occupational disease and occupational hearing loss
23 chapters of the Code.

24 Section 3 makes it a class "D" felony for any employer
25 subject to the workers' compensation chapters to willfully and
26 knowingly engage in business without having insurance covering
27 compensation, being relieved from carrying the insurance, or
28 posting a bond as required by the industrial commissioner.

29 Section 4 allows the attorney general, the applicable
30 county attorney, or any person to bring an action to obtain an
31 injunction to prohibit employers from violating their
32 obligation to provide compensation insurance or a bond as
33 required by section 3 of this bill. Currently, this provision
34 deals with violations of certain compensation insurance
35 requirements for mines.

1 Section 5 allows the industrial commissioner to require any
2 employer, regardless of the number of employees or the nature
3 of the business, who is not insured or relieved from insurance
4 to post a bond securing payment of the employer's workers'
5 compensation liability. This section provides that the bond
6 secures the liability under chapters 85, 85A, 85B, and 86 as
7 well as any liability for damages. Current law limits the
8 requirement to post bond to employers of more than five
9 persons engaged in hazardous employment.

10 Section 6 of the bill makes the voluntary shared work
11 program as provided in section 96.40 permanent by eliminating
12 the subsection repealing the program on February 28, 1995.

13 Section 7 repeals two sections providing that mining is
14 extra hazardous and that compensation insurance for mining is
15 required.

16 Section 8 repeals 1992 Iowa Acts, chapter 1056, section 3,
17 which required the industrial commissioner to adopt rules
18 requiring parties in a dispute for second injury fund benefits
19 to mediate their dispute prior to initiation of a contested
20 case proceeding.

21 Section 9 of the bill eliminates the unemployment benefit
22 charges against contributory employers' accounts for disaster-
23 related benefits paid during the period from April 13, 1993,
24 to January 8, 1994. The division of job service shall
25 establish criteria for eligibility for this relief.

26 BACKGROUND STATEMENT

27 SUBMITTED BY THE AGENCY

28 Sections 1-5 and 7: There are employers who do not have
29 insurance or have not been relieved of insurance who operate
30 in Iowa. People who work for these employers and who suffer
31 work-related injuries may not be paid for workers'
32 compensation benefits, or medical treatment. All employers,
33 regardless of the number of employees or the type of business,
34 should secure their workers' compensation liability. The
35 industrial commissioner should be able to require any employer

1 to provide security for payment of workers' compensation
2 liability.

3 This bill makes it a class "D" felony not to have
4 insurance, to be relieved of insurance or to continue to
5 operate after failing to post a bond. An employer may also be
6 prohibited from operating without security or insurance for
7 its workers' compensation liability. The attorney general,
8 the county attorney, or any person can enforce this provision
9 through an injunction.

10 Section 6: The voluntary shared work program was legalized
11 as a pilot project in 1991 to provide employers an alternative
12 to laying off employees. If an employer elects to participate
13 in a voluntary shared work plan and the plan is approved,
14 affected employees are allowed to share the work available
15 rather than some employees being laid off. The program is
16 scheduled to sunset on February 28, 1995. The program has not
17 been widely used but was a good option for those businesses
18 and employees who took advantage of the option.

19 Section 8: This repeals a requirement that the division of
20 industrial services adopt rules requiring mediation of second
21 injury fund disputes before initiation of a contested case
22 proceeding. The workers' compensation mediation program for
23 disputes other than second injury fund disputes has been very
24 successful due to several factors crucial to effective dispute
25 resolution. These factors include allowing parties to
26 voluntarily participate in the process and participating at
27 the appropriate stage of the dispute. Mediation is not
28 effective if the parties are not prepared and do not have
29 adequate information available to them. The requirement that
30 claims be mediated prior to initiation of contested case
31 proceedings for second injury fund disputes has proven to be
32 very unsuccessful because the factors necessary for successful
33 mediation cannot be present. For example, according to
34 department statistics, mediation for workers' compensation
35 disputes other than second injury fund disputes generally

1 results in resolution of disputes in approximately 74 percent
2 of the cases but in a one-year period, mandatory mediation of
3 second injury fund disputes was not successful. The
4 elimination of this requirement would not affect the otherwise
5 successful aspects of the mediation program nor would it
6 preclude voluntary mediation of second injury fund disputes at
7 the appropriate time.

8 Section 9 of the bill: Many Iowa employers were impacted
9 directly or indirectly by the flood of 1993. The United
10 States department of labor authorized Iowa to exempt impacted
11 employers from unemployment benefit charges for the disaster
12 period. This will have a \$4 to \$5 million impact on the trust
13 fund. In general, flood-related claimants received benefits
14 for a short duration of about three or four weeks.

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 2261

AN ACT

RELATING TO EMPLOYMENT SERVICES BY ELIMINATING CERTAIN UNEMPLOYMENT BENEFIT CHARGES, REQUIRING PARTICIPATION IN REEMPLOYMENT SERVICES FOR CERTAIN INDIVIDUALS RECEIVING UNEMPLOYMENT BENEFITS, MAKING THE VOLUNTARY SHARED WORK PROGRAM PERMANENT, AND MAKING CHANGES TO THE WORKERS' COMPENSATION LAWS.

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

Section 1. Section 87.1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Every employer subject to the provisions of this and chapters 85, 85A, 85B, and 86, unless relieved therefrom as hereinafter provided, shall insure the employer's liability thereunder in some corporation, association, or organization approved by the commissioner of insurance.

Sec. 2. Section 87.2, Code 1993, is amended to read as follows:

87.2 NOTICE OF FAILURE TO INSURE.

Any An employer who fails to insure the employer's liability as required herein by this chapter shall keep posted a sign of sufficient size and so placed as to be easily seen by the employer's employees in the immediate vicinity where working, which sign shall read as follows:

NOTICE TO EMPLOYEES

You are hereby notified that the undersigned employer has failed to insure the employer's liability to pay compensation

as required by law, and that because of such failure the employer is liable to the employer's employees in damages for personal injuries sustained by the employer's employees in the same manner and to the same extent as though the employer had legally exercised the employer's right to reject the provisions relating to compensation.

(Signed)

Any An employer coming under the provisions of this and chapters 85, 85A, 85B, and 86 who fails to comply with this section or to post and keep the above notice in the manner and form herein required, shall be guilty of a simple misdemeanor.

Sec. 3. NEW SECTION. 87.14A INSURANCE OR BOND REQUIRED.

An employer subject to this chapter and chapters 85, 85A, 85B, and 86 shall not engage in business without first obtaining insurance covering compensation benefits or obtaining relief from insurance as provided in this chapter or furnishing a bond pursuant to section 87.16. A person who willfully and knowingly violates this section is guilty of a class "D" felony.

Sec. 4. Section 87.15, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

87.15 INJUNCTIONS.

If a violation of section 87.14A has been committed or there is reason to believe a violation of section 87.14A is about to be committed, the attorney general or the county attorney from the county in which a violation has occurred or is about to occur shall, or any person may, bring an action to enjoin such person from committing the violation and the court or judge before whom the action is brought shall, if the facts warrant, issue a temporary or permanent writ of injunction without bond.

Sec. 5. Section 87.16, Code 1993, is amended to read as follows:

87.16 BOND IN LIEU OF INSURANCE.

~~Any An employer who has more than five persons engaged in hazardous employment, except the employments recited in section 85.47 and subject to this chapter and chapters 85, 85A, 85B, and 86 who has failed, omitted, and neglected to secure the payment of compensation by carrying insurance or is not relieved therefrom as by the statutes in such cases provided from carrying insurance as provided in this chapter,~~ shall furnish a bond approved by the industrial commissioner, as to form and security, conditioned to secure and pay workers' compensation or damages in accordance with the law; such. The bond shall be in such an amount as may be fixed by the industrial commissioner having due regard for the number of employees and considering the industrial experience in such the industry as a class.

Sec. 6. Section 96.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The individual participates in reemployment services as directed by the division pursuant to a profiling system, established by the division, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Sec. 7. Section 96.40, subsection 11, Code 1993, is amended by striking the subsection.

Sec. 8. Sections 87.12 and 87.14, Code 1993, are repealed.

Sec. 9. 1992 Iowa Acts, chapter 1056, section 3, is repealed.

Sec. 10. RELIEF FROM DISASTER-RELATED UNEMPLOYMENT BENEFIT CHARGES TO EMPLOYERS. Notwithstanding section 96.7, subsection 2, an account of an employer shall not be charged with benefits paid to an individual for unemployment that is directly caused by the presidentially declared disasters, numbered 986 and 996, for benefits paid from April 13, 1993, through January 8, 1994, for the purpose of calculating the employer's contribution rate pursuant to criteria established by the division of job service of the department of employment

services. This relief from charges for benefits paid from April 13, 1993, through January 8, 1994, does not apply to employers who are required or who have elected to reimburse the fund in lieu of paying contributions or to employers otherwise ineligible for relief under this section pursuant to criteria established by the division of job service.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2261, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 12, 1994

TERRY E. BRANSTAD
Governor