

FILED JAN 12 1993

SENATE FILE 2008
BY ZIEMAN

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

A BILL FOR

1 An Act relating to criminal defendant community service and
2 inmate work programs.

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

S.F. 2008

1 Section 1. Section 669.2, subsection 4, Code Supplement
2 1997, is amended to read as follows:

3 4. "Employee of the state" includes any one or more
4 officers, agents, or employees of the state or any state
5 agency, including members of the general assembly, and persons
6 acting on behalf of the state or any state agency in any
7 official capacity, temporarily or permanently in the service
8 of the state of Iowa, whether with or without compensation,
9 but does not include a contractor doing business with the
10 state. Professional personnel, including physicians,
11 osteopathic physicians and surgeons, osteopathic physicians,
12 optometrists, dentists, nurses, physician assistants, and
13 other medical personnel, who render services to patients or
14 inmates of state institutions under the jurisdiction of the
15 department of human services or the Iowa department of
16 corrections, and employees of the commission of veterans
17 affairs, are to be considered employees of the state, whether
18 the personnel are employed on a full-time basis or render
19 services on a part-time basis on a fee schedule or other
20 arrangement. Criminal defendants while performing unpaid
21 community service ordered by the district court, board of
22 parole, or judicial district department of correctional
23 services, or an inmate providing services pursuant to a
24 chapter 28E agreement entered into pursuant to section
25 904.703, and persons supervising those criminal defendants or
26 inmates, are to be considered employees of the state.

27 Sec. 2. Section 904.703, unnumbered paragraph 3, Code
28 1997, is amended to read as follows:

29 The director may enter into a chapter 28E agreement with a
30 county board of supervisors or county conservation board to
31 provide inmate services for environmental maintenance
32 including but not limited to brush and weed cutting, tree
33 planting, and erosion control. ~~The board of supervisors or~~
34 ~~conservation board shall reimburse the department of~~
35 ~~corrections for the allowance paid the inmates by the~~

1 director.--The-supervision, security, and transportation of
2 inmates used pursuant to the chapter 28E agreement shall be
3 provided by the department of corrections.

4 EXPLANATION

5 This bill makes changes relating to community service work
6 programs for criminal defendants and institutional and public
7 service work programs for inmates of correctional
8 institutions. The state tort claims act immunity provisions
9 are amended to provide that persons supervising criminal
10 defendants who are performing community service, and persons
11 who are supervising inmates who are performing services under
12 a chapter 28E services agreement, are to be considered
13 "employees of the state". The state tort claims act provides
14 tort claim liability coverage by the state for state employees
15 who commit negligent acts or omissions during the course of
16 their employment.

17 The bill deletes language which requires that a county
18 board of supervisors or county conservation board reimburse
19 the department of corrections for any allowances paid to
20 inmates who are performing environmental maintenance services
21 for the county under a chapter 28E agreement. The bill also
22 deletes a requirement that the department of corrections
23 provide the supervision, security, and transportation of
24 inmates who are used to perform the environmental maintenance
25 services under a chapter 28E agreement.

26
27
28
29
30
31
32
33
34
35

SENATE FILE 2008
FISCAL NOTE

REQ. BY SENATOR ZIEGLER

A fiscal note for Senate File 2008 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 2008 defines persons supervising criminal defendants or inmates as state employees for purposes of tort claims. The Bill also eliminates the requirement that when the Department of Corrections enters into a 28E agreement with the county board of supervisors or county conservation board for inmate services that the county reimburse the Department for the inmate allowance and that transportation, security, and supervision be provided by the Department of Corrections.

ASSUMPTIONS

1. Any person, whether an employee of a local governmental entity, private company, or volunteer, who supervises a probationer, parolee, or prison inmate worker for community service, private sector employment, or other related activity will be considered as a State employee for tort claims purposes.
2. The number of tort claims against the State will increase because the number of persons covered as State employees will increase.
3. The expansion of inmate labor will increase the number of persons who are not State employees that are supervising inmates.
4. The Department of Corrections does not provide training in inmate and offender supervision for persons who would become State employees for tort claim purposes under this Bill due to a lack of resources.

FISCAL IMPACT

The fiscal impact of Senate File 2008 cannot be determined. Since legal settlements and lawsuit costs vary, the impact of this change could be significant.

SOURCES

Office of the Attorney General
Department of Corrections

(LSB 3366SS, MDF)

FILED FEBRUARY 26, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR