

Senate Study Bill 213

Bill Text

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1 1 Section 1. Section 85.20, Code 1997, is amended to read as
1 2 follows:

1 3 85.20 RIGHTS OF EMPLOYEE EXCLUSIVE.

1 4 The rights and remedies provided in this chapter, chapter
1 5 85A or chapter 85B for an employee, or a student participating
1 6 in a school-to-work program as provided in section 85.61, on
1 7 account of injury, occupational disease or occupational
1 8 hearing loss for which benefits under this chapter, chapter
1 9 85A or chapter 85B are recoverable, shall be the exclusive and
1 10 only rights and remedies of

~~such~~

- the employee or student, the

1 11 employee's or student's personal or legal representatives,
1 12 dependents, or next of kin, at common law or otherwise, on
1 13 account of such injury, occupational disease, or occupational
1 14 hearing loss against any of the following:

1 15 1. Against the employee's employer

~~;~~ ~~or~~

1 16 2. Against any other employee of such employer, provided
1 17 that such injury, occupational disease, or occupational
1 18 hearing loss arises out of and in the course of such
1 19 employment and is not caused by the other employee's gross
1 20 negligence amounting to such lack of care as to amount to
1 21 wanton neglect for the safety of another.

1 22 3. For a student participating in a school-to-work
1 23 program, against the student's school district of residence,
1 24 receiving school district if the student is participating in
1 25 open enrollment under section 282.18, accredited nonpublic
1 26 school, community college, and directors, officers,
1 27 authorities, and employees of the applicable school
1 28 corporation.

1 29 Sec. 2. Section 85.60, Code 1997, is amended to read as
1 30 follows:

1 31 85.60 INJURIES WHILE IN EMPLOYMENT TRAINING OR EVALUATION.

1 32 A person participating in a school-to-work program referred
1 33 to in section 85.61, or receiving earnings while engaged in
1 34 employment training or while undergoing an employment
1 35 evaluation under the direction of a rehabilitation facility
2 1 approved for purchase-of-service contracts or for referrals by
2 2 the department of human services or the department of
2 3 education, who sustains an injury arising out of and in the
2 4 course of the school-to-work program participation, employment
2 5 training, or employment evaluation is entitled to benefits as
2 6 provided in this chapter, chapter 85A, chapter 85B, and
2 7 chapter 86. Notwithstanding the minimum benefit provisions of
2 8 this chapter,

~~such~~

- a person referred to in this section and

2 9 entitled to benefits under this chapter is entitled to receive
2 10 a minimum weekly benefit amount for a permanent partial
2 11 disability under section 85.34, subsection 2, or for a
2 12 permanent total disability under section 85.34, subsection 3,

2 13 equal to the weekly benefit amount of a person whose gross
2 14 weekly earnings are thirty-five percent of the statewide
2 15 average weekly wage computed pursuant to section 96.3 and in
2 16 effect at the time of the injury.

2 17 Sec. 3. Section [85.61](#), subsection 2, Code 1997, is amended
2 18 by adding the following new unnumbered paragraph:

2 19 NEW UNNUMBERED PARAGRAPH. "Employer" also includes and
2 20 applies to a public school corporation or an accredited
2 21 nonpublic school if a student enrolled in a public school
2 22 corporation or accredited nonpublic school is providing unpaid
2 23 services under a school-to-work program, as described in
2 24 section 258.10, subsection 2. However, if such a student is
2 25 participating in open enrollment under section 282.18,
2 26 "employer" means the student's district of residence. If a
2 27 student participating in a school-to-work program as described
2 28 in section 258.10, subsection 2, is paid for services provided
2 29 under the program, "employer" means any entity otherwise
2 30 defined as an employer under this subsection which pays the
2 31 student for providing services under the program.

2 32 Sec. 4. Section [85.61](#), subsection 11, Code 1997, is
2 33 amended by adding the following new unnumbered paragraph:

2 34 NEW UNNUMBERED PARAGRAPH. "Worker" or "employee" includes
2 35 a student enrolled in a public school corporation or
3 1 accredited nonpublic school who is participating in a school-
3 2 to-work program as described in section 258.10, subsection 2.

3 3 Sec. 5. Section [87.4](#), unnumbered paragraph 2, Code 1997,
3 4 is amended to read as follows:

3 5 A self-insurance association formed under this section and
3 6 an association comprised of cities or counties, or both, or
3 7 community colleges

~~—~~
- as defined in section 260C.2, or school
3 8 corporations, or both, which have entered into an agreement
3 9 under chapter 28E for the purpose of establishing a self-
3 10 insured program for the payment of workers' compensation
3 11 benefits are exempt from taxation under section 432.1.

3 12 Sec. 6. Section [258.10](#), Code 1997, is amended to read as
3 13 follows:

3 14 258.10 POWERS OF DISTRICT BOARDS.

3 15 1. The board of directors of

~~—any~~
- a school district

~~—is~~

3 16

~~—authorized to~~

- may carry on prevocational and vocational
3 17 instruction in subjects relating to agriculture, commerce,
3 18 industry, and home economics, and to pay the expense of such
3 19 instruction in the same way as the expenses for other subjects
3 20 in the public schools are

~~—now~~

- paid.

3 21 2. The board of directors of a school district may
3 22 establish and maintain school-to-work programs including
3 23 alternative learning opportunities through which students may
3 24 obtain skills or training outside the classroom. School-to-
3 25 work programs include, but are not limited to, the following:

3 26 a. Short-term job shadowing opportunities for students to
3 27 explore career interests by observing work at a workplace or
3 28 to include a series of visits to various workplaces and time
3 29 spent with individual workers to observe specific jobs.

3 30 b. Structured work experiences integrating school and
3 31 work-based experiences in an internship that may be an
3 32 extension of a job shadowing experience.
3 33 c. Mentoring experiences providing students with a formal
3 34 relationship with a worksite role model who shares career
3 35 insights and teaches students specific work-related skills.
4 1 d. Career-oriented work experiences tied to school lessons
4 2 through formal or informal training agreements, formal
4 3 learning plans or mentoring, by workplace personnel who may be
4 4 paid or unpaid, and which may earn students credit toward
4 5 graduation.
4 6 e. Structured on-the-job training or apprenticeships for
4 7 students who are enrolled in a technical or professional
4 8 program that leads to a high school diploma, advanced
4 9 certificate of mastery, or associate degree.
4 10 f. Work experiences available to students in school and
4 11 community placements directly supervised by a school district
4 12 or community college staff member.
4 13 3. The board may provide workers' compensation coverage by
4 14 insuring, or self-insuring as provided in section 87.4,
4 15 students participating in unpaid school-to-work programs. A
4 16 school district's liability to students injured while
4 17 participating in an unpaid school-to-work program is as
4 18 provided in section 85.20.

4 19 Sec. 7. IMPLEMENTATION OF ACT. Section 25B.2, subsection
4 20 3, shall not apply to this Act.

4 21 EXPLANATION

4 22 This bill establishes that for purposes of the workers'
4 23 compensation law, a student participating in a school-to-work
4 24 program is defined as an employee. If the student's
4 25 participation in the program is unpaid, the public school
4 26 corporation or accredited nonpublic school offering the
4 27 program is defined as the employer. If the student is
4 28 participating in a paid school-to-work program, the entity
4 29 that pays the student is defined as the employer.

4 30 However, the workers' compensation weekly benefit amount to
4 31 a student participating in a school-to-work program is limited
4 32 to an amount for a permanent partial disability, or for a
4 33 permanent total disability, equal to the weekly benefit amount
4 34 of a person whose gross weekly earnings are 35 percent of the
4 35 statewide average weekly wage in effect at the time of the
5 1 injury, rather than the weekly benefit that would be due to a
5 2 regular employee, which would be 80 percent of the employee's
5 3 weekly earnings, but not more than 184 percent of the
5 4 statewide average weekly wage for a partial disability, and
5 5 not more than 200 percent of the statewide average weekly wage
5 6 if the injury causes permanent total disability.

5 7 Under the bill, the rights and remedies of the workers'
5 8 compensation law are the participating students exclusive and
5 9 only rights and remedies for occupational injury, occupational
5 10 disease, or occupational hearing loss.

5 11 Districts are authorized to establish and maintain school-
5 12 to-work programs including alternative learning opportunities
5 13 through which students may obtain skills or training outside
5 14 the classroom. The bill also permits school districts to
5 15 provide workers' compensation coverage by insuring or self-
5 16 insuring students participating in a school-to-work program.

5 17 This bill may include a state mandate as defined in Code
5 18 section 25B.3. This bill makes inapplicable Code section
5 19 25B.2, subsection 3, which would relieve a political
5 20 subdivision from complying with a state mandate if funding for
5 21 the cost of the state mandate is not provided or specified.
5 22 Therefore, political subdivisions are required to comply with
5 23 any state mandate included in this bill.

5 24 LSB 2177SC 77

