

HSB 594

JUDICIARY

Succeeded By

S^r 2432

Milloge, chair

Shy

Holwick

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act concerning the administration of clerk of court offices.

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

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1 Section 1. Section 6B.4, unnumbered paragraph 2, Code
2 Supplement 1999, is amended to read as follows:

3 The chief judge of the judicial district shall select by
4 lot six persons from the list, two persons who are owner-
5 operators of agricultural property when the property to be
6 condemned is agricultural property; two persons who are owners
7 of city property when the property to be condemned is other
8 than agricultural property; and two persons from each of the
9 remaining two representative groups, who shall constitute a
10 compensation commission to assess the damages to all property
11 to be taken by the applicant and located in the county, and
12 shall name a chairperson from the persons selected. A person
13 shall not be selected as a member of the compensation
14 commission if the person possesses any interest in the
15 proceeding which would cause the person to render a biased
16 decision. ~~The clerk-of-the-district-court~~ applicant shall
17 send, by ordinary mail, a list of those persons selected to
18 the ~~applicant-and-to-the~~ owner of the property at the owner's
19 last known address and shall file proof of the mailing with
20 the sheriff. The list shall be provided prior to the mailing,
21 by any party, of a notice of assessment under section 6B.8.
22 If the ~~clerk-of-the-district-court~~ applicant is unable to
23 locate an address for the owner of the property, the list
24 shall be published once in a newspaper of general circulation
25 in the county. ~~The-applicant-shall-reimburse-the-clerk-of-the~~
26 ~~district-court-for-the-cost-of-mailing-and-publication.~~

27 Sec. 2. Section 450.24, Code 1999, is amended to read as
28 follows:

29 450.24 APPRAISERS.

30 In each county the court shall, on or before January 15 of
31 each the year an appointment is required, appoint three
32 competent residents and freeholders of the county to act as
33 appraisers of the real property within its jurisdiction which
34 is charged or sought to be charged with an inheritance tax.
35 The appraisers shall serve for ~~one-year~~ four years, and until

1 their successors are appointed and qualified. They shall each
 2 take an oath to faithfully and impartially perform the duties
 3 of the office, but shall not be required to give bond. They
 4 shall be subject to removal at any time at the discretion of
 5 the court. The court may also in its discretion, either
 6 before or after the appointment of the regular appraisers,
 7 appoint other appraisers to act in any given case. Vacancies
 8 occurring otherwise than by expiration of term shall be filled
 9 by appointment of the court. A person interested in any
 10 manner in the estate to be appraised shall not serve as an
 11 appraiser of that estate.

12 Sec. 3. Section 624.20, Code 1999, is amended to read as
 13 follows:

14 624.20 SATISFACTION OF JUDGMENT.

15 Where a judgment is set aside or satisfied by execution or
 16 otherwise, the clerk shall at once enter a memorandum thereof
 17 on the column left for that purpose in the judgment docket.
 18 However, the clerk may enter satisfaction of judgment if the
 19 amount of the judgment that is unsatisfied is one dollar or
 20 less.

21 Sec. 4. Section 804.21, subsection 6, Code 1999, is
 22 amended to read as follows:

23 6. This section does not prevent the release of the
 24 arrested person pending initial appearance upon the furnishing
 25 of bail in the amount endorsed on the warrant. The initial
 26 appearance of a person so released shall be scheduled for a
 27 time not more than ~~ten~~ thirty days after the date of release.

28 Sec. 5. Section 811.6, subsection 1, Code 1999, is amended
 29 to read as follows:

30 1. A defendant released pursuant to this chapter shall
 31 appear at arraignment, trial, judgment, or such other
 32 proceedings where the defendant's appearance is required. If
 33 the defendant fails to appear at the time and place when the
 34 defendant's personal appearance is lawfully required, or to
 35 surrender in execution of the judgment, the court must direct

1 an entry of the failure to be made of record, and the
2 undertaking of the defendant's bail, or the money deposited,
3 is thereupon forfeited. As a part of the entry, except as
4 provided in R.Cr.P. 53, the court shall direct the sheriff
5 clerk of the district court of the county to give ten days'
6 notice in writing to the defendant and the defendant's
7 sureties to appear and show cause, if any, why judgment should
8 not be entered for the amount of bail. If such appearance is
9 not made, judgment shall be entered by the court. If
10 appearance is made, the court shall set the case down for
11 immediate hearing as an ordinary action.

12 Sec. 6. Section 910.9, Code 1999, is amended to read as
13 follows:

14 910.9 COLLECTION OF PAYMENTS -- PAYMENT BY CLERK OF COURT.

15 An offender making restitution pursuant to a restitution
16 plan of payment shall make the payment monthly to the clerk of
17 court of the county from which the offender was sentenced,
18 unless the restitution plan of payment provides otherwise. If
19 the restitution plan authorizes payment to an entity other
20 than the clerk of court, that entity shall regularly file a
21 partial or full satisfaction of judgment with the clerk of
22 court concerning amounts collected by that entity.

23 The clerk of court shall maintain a record of all receipts
24 and disbursements of restitution payments and shall disburse
25 all moneys received to the victims designated in the plan of
26 restitution. If there is more than one victim, disbursements
27 to the victims shall be on the basis of the victim's
28 percentage of the total owed by the offender to all victims,
29 except that the clerk of court may decide the allocation of
30 payments owed to a victim of twenty twenty-five dollars or
31 less.

32 Fines, penalties, and surcharges, crime victim compensation
33 program reimbursement, public agency restitution, court costs
34 including correctional fees claimed by a sheriff pursuant to
35 section 356.7, court-appointed attorney's fees, and expenses

1 for public defenders, shall not be withheld by the clerk of
 2 court until all victims have been paid in full. Payments to
 3 victims shall be made by the clerk of court at least
 4 quarterly. Payments by a clerk of court shall be made no
 5 later than the last business day of the quarter, but may be
 6 made more often at the discretion of the clerk of court. The
 7 clerk of court receiving final payment from an offender, shall
 8 notify all victims that full restitution has been made ~~and a~~
 9 ~~copy of the notice shall be sent to the sentencing court.~~
 10 Each office or individual charged with supervising an offender
 11 who is required to perform community service as full or
 12 partial restitution shall keep records to assure compliance
 13 with the portions of the plan of restitution and restitution
 14 plan of payment relating to community service and, when the
 15 offender has complied fully with the community service
 16 requirement, notify the sentencing court.

17 EXPLANATION

18 This bill makes several changes governing the duties and
19 responsibilities of clerks of the district court.

20 Code section 6B.4 is amended to require the applicant for
21 condemnation of property rather than the clerk of court to
22 mail the list of condemnation commissioners to the owner of
23 the property and to require the applicant to file proof of the
24 mailing with the sheriff.

25 Code section 450.24 is amended to increase the term of
26 office for inheritance real estate appraisers from one to four
27 years.

28 Code section 624.20 is amended to permit a clerk of court
29 to enter satisfaction of judgment if the judgment remaining is
30 \$1 or less.

31 Code section 804.21 is amended to extend the time for an
32 initial appearance from 10 days to 30 days after arrest and
33 subsequent release on bail.

34 Code section 811.6 is amended to require the clerk, rather
35 than the sheriff, to provide 10 days' notice to the defendant

1 and the defendant's sureties of entry of judgment for
2 forfeited bail.

3 Code section 910.9 is amended concerning the collection of
4 restitution payments. The bill provides that if an entity
5 other than the clerk is authorized to receive payments, that
6 entity shall regularly notify the clerk about the receipt of
7 such payments. In addition, the Code section is amended to
8 permit the clerk to allocate payments among multiple victims
9 at its discretion, instead of pursuant to a set percentage of
10 the total owed to each victim, when the payment to a victim
11 would be \$25 or less. The Code section is also amended to
12 eliminate the requirement that the sentencing court be
13 notified when full restitution has been made.

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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: JANUARY 27, 2000

RE: TLSB 5345DP

The purpose of this bill is to clarify certain duties, eliminate outdated procedures and practices, increase efficiency in offices of the clerk of the district court, and make other technical changes concerning the administration of the judicial system.

Section 1 amends Iowa Code section 6B.4 to require the applicant in a condemnation proceeding to serve notice of the names of the compensation commissioners on the owner of the property being condemned. With the exception of the chief judge's approval of an application for condemnation, the courts are not involved in condemnation proceedings unless the matter is appealed to the district court. While the clerk does not have the names of the commissioners appointed by the chief judge, the applicant in the proceeding does. It would be more efficient and direct for the applicant to have the responsibility of notifying the property owner of the selection of the commissioners rather than the applicant paying the clerk to do so.

Section 2 provides for inheritance tax appraisers to be appointed for four (4) year terms, rather than one (1) terms. In most counties these appraisers are reappointed annually so it would be more efficient to allow for longer terms.

Section 3 amends section 624.20 to permit clerks of the district court to enter satisfaction of a judgment if the amount remaining is \$1 or less. Occasionally, litigants inadvertently submit the wrong amount to satisfy a judgment. No matter how minuscule the amount, it remains on the books. If it is an outstanding debt owed to the state, it automatically triggers collection efforts that cost considerably more than the debt owed. This provision will give clerks of the district court discretion to enter satisfaction on such debts where the balance is \$1 or less.

Section 4 would provide that initial appearances of certain persons released on bail must be held within thirty (30) days rather than ten (10) days. Many law enforcement officers direct recipients of citations to appear within two or three weeks of receiving a citation. This appears to work well for both law enforcement and the courts.

Section 5 transfers the duty of notifying a defendant and their sureties when an entry of judgment for forfeited bond has been entered from the county sheriff to the clerk of the district court. Current law requires unnecessary work for the sheriff who must first obtain the information from the clerk. Since there is no requirement of personal service, it would make more sense for the clerk to mail the information to the defendant and their sureties rather than the sheriff.

Section 6 makes several changes in the collection and processing of restitution payments. First, section 910.9 is amended to require entities collecting restitution to notify the clerk of the district court of amounts collected. Currently, there is no requirement for entities such as the department of human services or crime victims' assistance agencies that collect restitution to report the amounts collected to the clerk of the district court. Since the court record is then incomplete,

SB 594

this can cause problems for defendants who are making payments but not receiving proper credit for them.

Section 6 also clarifies when a clerk of the district court may allocate restitution payments among multiple victims. Under current law, if a restitution payment is insufficient to cover the total amount due, the payment is divided proportionately between the victims, except when the amount is less than \$20. If the amount is less than \$20, the clerk of the district court has discretion to pay the total amount received to one of the victims. The proposed changes clarify that the exception is triggered by the amount of the payment, not the amount of the restitution to be received by the victims, and increases the amount to \$25.

Finally, section 6 deletes the requirement that the clerk of the district court must provide notice to the sentencing court of receipt of the final restitution payment from a defendant. The notation made on the docket is sufficient and notifying the sentencing judge is unnecessary.

If you have questions, please contact David Boyd at 281-5241.

Substituted for by SF 2212
3/23/00
(p. 968)

3/16/00 Unfinished Business Calendar

FEB 24 2000

Place On Calendar

HOUSE FILE **2432**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 594)
(COMPANION TO SF 2212 BY
COMMITTEE ON JUDICIARY)

WITHDRAWN

3/23/00 (p. 968)

Passed House, Date _____ Passed Senate, Date _____

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

Approved _____

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HF 2432

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2432

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9 an entry of the failure to be made of record, and the
10 undertaking of the defendant's bail, or the money deposited,
11 is thereupon forfeited. As a part of the entry, except as
12 provided in R.Cr.P. 53, the court shall direct the **sheriff**
13 clerk of the district court of the county to give ten days'
14 notice in writing to the defendant and the defendant's
15 sureties to appear and show cause, if any, why judgment should
16 not be entered for the amount of bail. If such appearance is
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2 to enter satisfaction of judgment if the judgment remaining is
3 \$1 or less.

4 Code section 804.21 is amended to extend the time for an
5 initial appearance from 10 days to 30 days after arrest and
6 subsequent release on bail.

7 Code section 804.22 is amended to extend the time for an
8 initial appearance from 10 days to 30 days after arrest
9 without a warrant and subsequent release on bail.

10 Code section 811.6 is amended to require the clerk, rather
11 than the sheriff, to provide 10 days' notice to the defendant
12 and the defendant's sureties of entry of judgment for
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14 Code section 910.9 is amended concerning the collection of
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**SENATE FILE 2432
FISCAL NOTE**

A fiscal note for Senate File 2432 as amended by S-5320 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 2432, as amended by S-5320, exempts from State sales and use taxes central office equipment and transmission equipment sold or rented for use in transporting communication services by local exchange carriers, competitive local exchange service providers, certain franchise cable television operators, mutual companies, cooperatives, and municipal utilities not subject to rate regulation, long-distance companies, and commercial mobile radio services. The exemption would be phased in over a five-year period beginning July 1, 2001. However, if the sales or rental of qualifying equipment occurs after July 1, 2001, and it is made for a telephone exchange of 5,000 access lines or less, all of the gross receipts are immediately exempt and no payment of tax and subsequent refund are required. After June 30, 2005, the qualifying equipment will be completely exempt for all size enterprises.

BACKGROUND

The value of centrally assessed telecommunications equipment in Iowa totals \$1.938 billion. This equals an increase of approximately 19.0% over the prior year. The national rate of increase for investment in telephone switching and switchboard equipment during the same period equalled 19.0%.

Approximately, 18.0% of the centrally assessed telecommunications equipment in Iowa is owned by companies that are primarily engaged in the provision of long-distance service. The remainder of the equipment is owned by companies that provide local service to Iowa customers, plus some long-distance service within the State. According to the Electrical Engineering Department at Iowa State University, long-distance carriers have some discretion as to where they locate their switching equipment. However, locating switching equipment a substantial distance from customers requires additional investment in trunk lines. Switching equipment used by providers of local service, typically referred to as central office equipment, needs to be located near the customers being served.

Three states bordering Iowa were contacted to determine if they impose sales and use taxes on telecommunications switching and transmission equipment. All three states (Minnesota, Illinois, and Wisconsin) currently impose such taxes.

ASSUMPTION

1. Existing transmission equipment will be replaced over 15 years.
2. The rate of investment in switching and transmission equipment will grow at a rate of 11.0% per year from 2000 through 2006.

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3. The State sales and use tax rate equals 5.0%.
4. The exemption will be phased in over five years beginning July 1, 2001, except for equipment used for telephone exchanges serving 5,000 or fewer access lines. For the small exchanges, the exemption will take immediate effect for purchases made after July 1, 2001. For other purchases, the first year telecommunication companies will qualify for a tax refund equal to 20.0% of the amount paid. The refund amount will increase by 20.0% per year until July 1, 2005, after which time the purchases of all qualifying equipment will be exempt from State sales and use taxes.
5. None of the eight major telecommunications carriers serving or traversing Iowa (i.e., AT&T, Sprint, MCI Worldcom, INS, GTE Midwest, US West, Frontier, or McLeod USA) would qualify for the immediate 100% exemption provided for exchanges serving under 5,000 access lines by amendment S-5320.
6. Companies serving small exchanges will account for about 19.0% of the equipment purchases qualifying for the exemption.

FISCAL IMPACTS

Senate File 2432, as amended by S-5320, will result in a decrease in General Fund receipts equal to \$5.2 million in FY 2002. For FY 2003, the impact will increase to \$8.3 million; for FY 2004, to \$11.9 million; for FY 2005, to \$16.1 million; and for FY 2006, to \$21.0 million.

It is not possible to estimate the impact on local option sales and service tax receipts because the exact location of the qualifying equipment is unknown. Also, some short-distance relocation of central office equipment may be possible to avoid paying local option taxes.

SOURCES

Iowa Department of Revenue and Finance
U.S. Department of Commerce, Current Industry Reports, MA334P(98)-1,
Communication Equipment
A. Michael Noll, Introduction to Telephones and Telephone Systems, 3rd
Edition (1998)
Dr. Arun K. Somani, Professor, Electrical and Computer Engineering Department,
Iowa State University
Minnesota Department of Revenue
Wisconsin Department of Revenue
Illinois Department of Revenue

(LSB 7181SV.2, MAL)

FILED APRIL 6, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR