

Horbach, Ch
Dotyler
Hoffman

HSB 679

LABOR & INDUSTRIAL RELATIONS

HOUSE FILE S 0244/
BY (PROPOSED COMMITTEE ON LABOR
AND INDUSTRIAL RELATIONS BILL
BY CHAIRPERSON TYRRELL)

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

A BILL FOR

1 An Act relating to workers' compensation concerning service of
2 notices on nonresident employers, the calculation of weekly
3 earnings, and the approval of related liens.

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

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1 Section 1. Section 85.3, subsection 2, Code 1999, is
2 amended to read as follows:

3 2. Any employer who is a nonresident of the this state,
4 for whom services are performed within the this state by
5 ~~employees-entitled-to-rights-under-this-chapter, chapter-85A~~
6 ~~or-chapter-85B~~ any employee, is deemed to be doing business in
7 this state by virtue of having such services performed and the
8 employer and employee shall be subject to the jurisdiction of
9 the workers' compensation commissioner and to all of the
10 provisions of this chapter, chapters 85A, 85B, 86, and 87, as
11 to any and all personal injuries sustained by ~~an~~ the employee
12 arising out of and in the course of such employment within
13 this state. In addition, every corporation, individual,
14 personal representative, partnership, or association that has
15 the necessary minimum contact with this state shall be subject
16 to the jurisdiction of the workers' compensation commissioner,
17 and the workers' compensation commissioner shall hold such
18 corporation, individual, personal representative, partnership,
19 or association amenable to suit in this state in every case
20 not contrary to the provisions of the Constitution of the
21 United States.

22 3. Service of process or original notice upon a
23 nonresident employer may be performed as provided in section
24 617.3 or as provided in the Iowa rules of civil procedure. In
25 addition, service may be made on any corporation, individual,
26 personal representative, partnership, or association that has
27 the necessary minimum contact with this state as provided in
28 rule of civil procedure 56.1 within or without this state or
29 if such service cannot be made, in any manner consistent with
30 due process of law prescribed by the workers' compensation
31 commission.

32 In addition to those persons authorized to receive personal
33 service as in civil actions as permitted by chapter 17A and
34 this chapter, such employer shall be deemed to have appointed
35 the secretary of state of this state as its lawful attorney

1 upon whom may be served or delivered any and all notices
2 authorized or required by the provisions of this chapter,
3 chapters 85A, 85B, 86, 87, and 17A, and to agree that any and
4 all such services or deliveries of notice on the secretary of
5 state shall be of the same legal force and validity as if
6 personally served upon or delivered to such nonresident
7 employer in this state.

8 This section does not limit or affect the right to serve an
9 original notice upon any corporation, individual, personal
10 representative, partnership, or association within or without
11 this state in any manner otherwise permitted by statute or
12 rule.

13 4. For purposes of this section, a nonresident employer is
14 any employer that is not a resident of Iowa as defined in
15 section 617.3.

16 Sec. 2. Section 85.36, subsection 6, Code 1999, is amended
17 to read as follows:

18 6. In the case of an employee who is paid on a daily, or
19 hourly basis, or by the output of the employee, the weekly
20 earnings shall be computed by dividing by thirteen the
21 earnings, not including overtime or premium pay, of said the
22 employee earned in the employ of the employer in the last
23 completed period of thirteen consecutive calendar weeks
24 immediately preceding the injury. If the employee was absent
25 from employment for reasons personal to the employee during
26 part of the thirteen calendar weeks preceding the injury, the
27 employee's weekly earnings shall be the amount the employee
28 would have earned had the employee worked when work was
29 available to other employees of the employer in a similar
30 occupation. A week which does not fairly reflect the
31 employee's customary earnings shall be replaced by the closest
32 previous week with earnings that fairly represent the
33 employee's customary earnings.

34 Sec. 3. Section 85.36, subsection 7, Code 1999, is amended
to read as follows:

1 7. In the case of an employee who has been in the employ
2 of the employer less than thirteen calendar weeks immediately
3 preceding the injury, the employee's weekly earnings shall be
4 computed under subsection 6, taking the earnings, not
5 including overtime or premium pay, for such purpose to be the
6 amount the employee would have earned had the employee been so
7 employed by the employer the full thirteen calendar weeks
8 immediately preceding the injury and had worked, when work was
9 available to other employees in a similar occupation. If the
10 earnings of other employees cannot be determined, the
11 employee's weekly earnings shall be the average computed for
12 the number of weeks the employee has been in the employ of the
13 employer.

14 Sec. 4. Section 86.11, Code 1999, is amended to read as
15 follows:

16 86.11 REPORTS OF INJURIES.

17 Every employer shall hereafter keep a record of all
18 injuries, fatal or otherwise, alleged by an employee to have
19 been sustained in the course of the employee's employment and
20 resulting in incapacity for a longer period than one day. If
21 the injury results only in temporary disability, causing
22 incapacity for a longer period than three days ~~except-as~~
23 ~~provided-in-section-86-36~~, then within four days thereafter,
24 not counting Sundays and legal holidays, the employer or
25 insurance carrier having had notice or knowledge of the
26 occurrence of such injury and resulting disability, shall file
27 a report with the workers' compensation commissioner in the
28 form and manner required by the commissioner. If such injury
29 to the employee results in permanent total disability,
30 permanent partial disability or death, then the employer or
31 insurance carrier upon notice or knowledge of the occurrence
32 of the employment injury, shall file a report with the
33 workers' compensation commissioner, within four days after
34 having notice or knowledge of the permanent injury to the
35 employee or the employee's death. The report to the workers'

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1 compensation commissioner of injury shall be without prejudice
2 to the employer or insurance carrier and shall not be admitted
3 in evidence or used in any trial or hearing before any court,
4 the workers' compensation commissioner or a deputy workers'
5 compensation commissioner except as to the notice under
6 section 85.23.

7 Sec. 5. Section 86.39, Code 1999, is amended to read as
8 follows:

9 86.39 FEES -- APPROVAL ---BIEN.

10 All fees or claims for legal, medical, hospital, and burial
11 services rendered under this chapter and chapters 85, 85A,
12 85B, and 87 are subject to the approval of the workers'
13 compensation commissioner, ~~and no lien for such service is~~
14 ~~enforceable without the approval of the amount of the lien by~~
15 ~~the workers' compensation commissioner.~~ For services rendered
16 in the district court and appellate courts, the attorney's fee
17 is subject to the approval of a judge of the district court.

18 Sec. 6. Section 86.36, Code 1999, is repealed.

19 EXPLANATION

20 This bill makes several changes to the workers'
21 compensation system.

22 Code section 85.3, governing notice to nonresident
23 employers, is amended. The changes provide that a nonresident
24 employer who has services performed by any employee in this
25 state is deemed to be doing business in this state and is
26 therefore subject to the jurisdiction of the workers'
27 compensation commissioner and the laws pertaining to workers'
28 compensation. The changes further provide that the workers'
29 compensation commissioner has jurisdiction over an entity if
30 that entity has sufficient minimum contacts with the state.
31 The bill also provides for the service of process on a
32 nonresident employer as provided in Code section 617.3 and on
33 any person based on the rules of civil procedure. The current
34 provision on service and notice, Code section 86.36, is
35 repealed.

1 Code section 85.36, relating to the basis for computing
2 workers' compensation benefits, is amended. The bill adds
3 provisions detailing how to determine an employee's weekly
4 earnings for purposes of determining benefits if the employee
5 is not employed for the entire 13-week period immediately
6 preceding the injury or if earnings of other employees in a
7 similar position cannot be determined.

8 Code section 86.39 is amended to eliminate the requirement
9 that a lien for the costs of legal, medical, hospital, and
10 burial services be approved by the workers' compensation
11 commissioner before it can be enforceable.

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(Substituted for by SF 2373)

FEB 24 2000

Place On Calendar

HOUSE FILE **2441**
BY COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS

WITHDRAWN

(SUCCESSOR TO HSB 679)

*3-7-00
(p. 578)*

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

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HF 2441

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4 all such services or deliveries of notice on the secretary of
5 state shall be of the same legal force and validity as if
6 personally served upon or delivered to such nonresident
7 employer in this state.

8 This section does not limit or affect the right to serve an
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