

House Study Bill 679

Bill Text

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1 1 Section 1. Section 85.3, subsection 2, Code 1999, is
1 2 amended to read as follows:
1 3 2. Any employer who is a nonresident of

~~the~~
- this state,
1 4 for whom services are performed within

~~the~~
- this state by
1 5

~~employees entitled to rights under this chapter, chapter 85A~~
-
1 6

~~or chapter 85B~~
- any employee, is deemed to be doing business in
1 7 this state by virtue of having such services performed and the
1 8 employer and employee shall be subject to the jurisdiction of
1 9 the workers' compensation commissioner and to all of the
1 10 provisions of this chapter, chapters 85A, 85B, 86, and 87, as
1 11 to any and all personal injuries sustained by

~~an~~
- the employee
1 12 arising out of and in the course of such employment within
1 13 this state. In addition, every corporation, individual,
1 14 personal representative, partnership, or association that has
1 15 the necessary minimum contact with this state shall be subject
1 16 to the jurisdiction of the workers' compensation commissioner,
1 17 and the workers' compensation commissioner shall hold such
1 18 corporation, individual, personal representative, partnership,
1 19 or association amenable to suit in this state in every case
1 20 not contrary to the provisions of the Constitution of the
1 21 United States.

1 22 3. Service of process or original notice upon a
1 23 nonresident employer may be performed as provided in section
1 24 617.3 or as provided in the Iowa rules of civil procedure. In
1 25 addition, service may be made on any corporation, individual,
1 26 personal representative, partnership, or association that has
1 27 the necessary minimum contact with this state as provided in
1 28 rule of civil procedure 56.1 within or without this state or
1 29 if such service cannot be made, in any manner consistent with
1 30 due process of law prescribed by the workers' compensation
1 31 commission.

1 32 In addition to those persons authorized to receive personal
1 33 service as in civil actions as permitted by chapter 17A and
1 34 this chapter, such employer shall be deemed to have appointed
1 35 the secretary of state of this state as its lawful attorney
2 1 upon whom may be served or delivered any and all notices
2 2 authorized or required by the provisions of this chapter,
2 3 chapters 85A, 85B, 86, 87, and 17A, and to agree that any and
2 4 all such services or deliveries of notice on the secretary of
2 5 state shall be of the same legal force and validity as if
2 6 personally served upon or delivered to such nonresident

2 7 employer in this state.
2 8 This section does not limit or affect the right to serve an
2 9 original notice upon any corporation, individual, personal
2 10 representative, partnership, or association within or without
2 11 this state in any manner otherwise permitted by statute or
2 12 rule.

2 13 4. For purposes of this section, a nonresident employer is
2 14 any employer that is not a resident of Iowa as defined in
2 15 section 617.3.

2 16 Sec. 2. Section [85.36](#), subsection 6, Code 1999, is amended
2 17 to read as follows:

2 18 6. In the case of an employee who is paid on a daily, or
2 19 hourly basis, or by the output of the employee, the weekly
2 20 earnings shall be computed by dividing by thirteen the
2 21 earnings, not including overtime or premium pay, of

~~—said~~

~~— the~~

2 22 employee earned in the employ of the employer in the last
2 23 completed period of thirteen consecutive calendar weeks
2 24 immediately preceding the injury. If the employee was absent
2 25 from employment for reasons personal to the employee during
2 26 part of the thirteen calendar weeks preceding the injury, the
2 27 employee's weekly earnings shall be the amount the employee
2 28 would have earned had the employee worked when work was
2 29 available to other employees of the employer in a similar
2 30 occupation. A week which does not fairly reflect the
2 31 employee's customary earnings shall be replaced by the closest
2 32 previous week with earnings that fairly represent the
2 33 employee's customary earnings.

2 34 Sec. 3. Section [85.36](#), subsection 7, Code 1999, is amended
2 35 to read as follows:

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

3 14 Sec. 4. Section [86.11](#), Code 1999, is amended to read as
3 15 follows:

3 16 86.11 REPORTS OF INJURIES.

3 17 Every employer shall hereafter keep a record of all
3 18 injuries, fatal or otherwise, alleged by an employee to have
3 19 been sustained in the course of the employee's employment and
3 20 resulting in incapacity for a longer period than one day. If
3 21 the injury results only in temporary disability, causing
3 22 incapacity for a longer period than three days

~~—except as~~

~~—~~
3 23

~~—provided in section [86.36](#)~~

~~—, then within four days thereafter,~~

3 24 not counting Sundays and legal holidays, the employer or
3 25 insurance carrier having had notice or knowledge of the
3 26 occurrence of such injury and resulting disability, shall file
3 27 a report with the workers' compensation commissioner in the
3 28 form and manner required by the commissioner. If such injury
3 29 to the employee results in permanent total disability,

3 30 permanent partial disability or death, then the employer or
3 31 insurance carrier upon notice or knowledge of the occurrence
3 32 of the employment injury, shall file a report with the
3 33 workers' compensation commissioner, within four days after
3 34 having notice or knowledge of the permanent injury to the
3 35 employee or the employee's death. The report to the workers'
4 1 compensation commissioner of injury shall be without prejudice
4 2 to the employer or insurance carrier and shall not be admitted
4 3 in evidence or used in any trial or hearing before any court,
4 4 the workers' compensation commissioner or a deputy workers'
4 5 compensation commissioner except as to the notice under
4 6 section 85.23.

4 7 Sec. 5. Section [86.39](#), Code 1999, is amended to read as
4 8 follows:

4 9 86.39 FEES APPROVAL

~~LIEN~~

4 10 All fees or claims for legal, medical, hospital, and burial
4 11 services rendered under this chapter and chapters 85, 85A,
4 12 85B, and 87 are subject to the approval of the workers'
4 13 compensation commissioner

~~, and no lien for such service is~~

4 14

~~enforceable without the approval of the amount of the lien by~~

4 15

~~the workers' compensation commissioner~~

- For services rendered

4 16 in the district court and appellate courts, the attorney's fee
4 17 is subject to the approval of a judge of the district court.

4 18 Sec. 6. Section [86.36](#), Code 1999, is repealed.

4 19 EXPLANATION

4 20 This bill makes several changes to the workers'
4 21 compensation system.

4 22 Code section 85.3, governing notice to nonresident
4 23 employers, is amended. The changes provide that a nonresident
4 24 employer who has services performed by any employee in this
4 25 state is deemed to be doing business in this state and is
4 26 therefore subject to the jurisdiction of the workers'
4 27 compensation commissioner and the laws pertaining to workers'
4 28 compensation. The changes further provide that the workers'
4 29 compensation commissioner has jurisdiction over an entity if
4 30 that entity has sufficient minimum contacts with the state.
4 31 The bill also provides for the service of process on a
4 32 nonresident employer as provided in Code section 617.3 and on
4 33 any person based on the rules of civil procedure. The current
4 34 provision on service and notice, Code section 86.36, is
4 35 repealed.

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

5 8 Code section 86.39 is amended to eliminate the requirement
5 9 that a lien for the costs of legal, medical, hospital, and
5 10 burial services be approved by the workers' compensation
5 11 commissioner before it can be enforceable.

5 12 LSB 6679HC 78

