

FEB 12 2004

JUDICIARY

HOUSE FILE 2244

BY HORBACH

Passed House, Date _____ Passed Senate, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to an award of attorney fees in a class action
2 lawsuit.

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

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HF 2244

1 Section 1. NEW SECTION. 613B.1 APPLICABILITY.

2 1. Except as provided in subsection 2, this chapter
3 applies to an award of attorney fees in a class action
4 lawsuit, notwithstanding any of the following:

5 a. An agreement between the attorney for the class and any
6 member of the class.

7 b. Any other law or rule of court.

8 2. This chapter shall not apply to fees payable to the
9 attorney by a named plaintiff client out of the client's
10 funds, including the client's share of the common fund
11 recovered for the class, under an agreement between the
12 attorney and the client.

13 Sec. 2. NEW SECTION. 613B.2 NO RIGHT TO FEES CREATED.

14 This chapter does not create a right to an award of
15 attorney fees.

16 Sec. 3. NEW SECTION. 613B.3 AWARD OF ATTORNEY FEES --
17 COMMON FUND.

18 If a court awards a fee in a class action to the attorney
19 for the class, the fee must be awarded out of a common fund or
20 measured by a common benefit recovered for the class, and the
21 fee shall be computed as provided in this chapter.

22 Sec. 4. NEW SECTION. 613B.4 AWARD OF ATTORNEY FEES --
23 DETERMINATION OF BASE FEE.

24 1. In a class action in which an award of attorney fees is
25 to be made, the court shall first determine the base fee under
26 this section.

27 2. In determining the amount of the attorney fees, the
28 court shall consider all of the following factors:

29 a. The number of hours reasonably expended by the attorney
30 for the class.

31 b. The hourly rate most appropriate for the services
32 provided by the attorney for the class.

33 3. The rates determined pursuant to subsection 2 shall be
34 based on and shall not exceed the rates customarily charged in
35 the locality for similar legal services in an action other

1 than a class action.

2 4. In computing the base fee, the court shall multiply the
3 hours determined pursuant to subsection 2, paragraph "a", by
4 the rate determined pursuant to subsection 2, paragraph "b".

5 Sec. 5. NEW SECTION. 613B.5 INCREASE OR DECREASE OF BASE
6 FEE -- TOTAL FEES.

7 1. Except as provided in subsection 2, the court may
8 increase or decrease the base fee determined pursuant to
9 section 613B.4 upon consideration of all of the following
10 factors:

11 a. The novelty and the difficulty of the issues involved
12 in the action.

13 b. The skill required to properly perform the legal
14 services by the attorney for the class.

15 c. The amount of money involved in the action and the
16 results obtained.

17 d. The time limitations imposed by the class for the
18 services provided by the attorney for the class or the
19 circumstances of the class action.

20 e. The experience, reputation, and ability of the attorney
21 for the class.

22 2. The total fees awarded by the court shall not exceed
23 the lesser of the following:

24 a. Twenty-five percent of the amounts collected by class
25 members out of the common fund or as measured by a common
26 benefit recovered for the class.

27 b. Four times the base fee as determined pursuant to
28 section 613B.4.

29 Sec. 6. NEW SECTION. 613B.6 ACTUAL EXPENSES AND COSTS.

30 In addition to the fee determined by the court pursuant to
31 this chapter, the court may award the attorney representing
32 the class all reasonable expenses and costs of litigation
33 actually incurred by the attorney on behalf of the class.

34 EXPLANATION

35 This bill relates to the award of attorney fees in a class

1 action lawsuit.

2 The bill applies to an award of attorney fees in a class
3 action to the attorney for the class, and such a fee must be
4 awarded out of a common fund or measured by a common benefit
5 recovered for the class. The bill does not apply to attorney
6 fees payable to the attorney by a named plaintiff client out
7 of the client's funds.

8 The bill provides that the court shall award attorney fees
9 using a base fee, which is calculated on the number of hours
10 reasonably expended by the attorney multiplied by the hourly
11 rate most appropriate for the services provided by the
12 attorney. In determining the hourly rate, the court shall
13 consider and shall not exceed rates customarily charged in the
14 locality for similar legal services in an action other than a
15 class action. In addition, the bill provides that the court
16 may increase or decrease the base fee upon consideration of
17 the novelty and the difficulty of the issues involved in the
18 action, the skill required, the amount of money involved and
19 the results obtained, the time limitations imposed, and the
20 experience, reputation, and the ability of the attorney for
21 the class. The total fees awarded by the court shall not
22 exceed 25 percent of the common fund or common benefit
23 recovered for the class or four times the base fee, whichever
24 is less.

25 The bill provides that the court may award the attorney
26 representing the class all reasonable expenses and costs of
27 litigation incurred by the attorney on behalf of the class.

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