

House Study Bill 543

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 relating to the judicial branch including judicial review
2 of state agency decisions, contested and uncontested parking
3 violations, filing civil citations of municipal infractions
4 with the clerk, appointments to the clerk of the district
5 court, records kept by the clerk, and service of original
6 notice in a small claims action.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
8 TLSB 5449DP 82
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1 1 Section 1. Section 17A.19, subsection 7, Code 2007, is
1 2 amended to read as follows:
1 3 7. In proceedings for judicial review of agency action a
1 4 court may hear and consider ~~such~~ evidence as it deems
1 5 appropriate. The evidence shall be made part of the district
1 6 court record.
1 7 a. In proceedings for judicial review of agency action not
1 8 involving a contested case, the evidence shall include a
1 9 certified copy of the decision of the agency, a transcript of
1 10 any reported agency hearing that is relevant to the agency
1 11 action, and relevant documents or evidence considered by the
1 12 agency in taking the action under review or any other relevant
1 13 documents submitted by a party for consideration by the court.
1 14 b. In proceedings for judicial review of agency action in
1 15 a contested case, however, a court shall not itself hear any
1 16 further evidence with respect to those issues of fact whose
1 17 determination was entrusted by Constitution or statute to the
1 18 agency in that contested case proceeding. Before the date set
1 19 for hearing a petition for judicial review of agency action in
1 20 a contested case, application may be made to the court for
1 21 leave to present evidence in addition to that found in the
1 22 record of the case. If it is shown to the satisfaction of the
1 23 court that the additional evidence is material and that there
1 24 were good reasons for failure to present it in the contested
1 25 case proceeding before the agency, the court may order that
1 26 the additional evidence be taken before the agency upon
1 27 conditions determined by the court. The agency may modify its
1 28 findings and decision in the case by reason of the additional
1 29 evidence and shall file that evidence and any modifications,
1 30 new findings, or decisions with the reviewing court and mail
1 31 copies of the new findings or decisions to all parties.
1 32 Sec. 2. Section 321.236, subsection 1, unnumbered
1 33 paragraph 2, Code Supplement 2007, is amended to read as
1 34 follows:
1 35 Parking meter, snow route, and overtime parking violations
2 1 which are ~~denied~~ contested shall be charged and proceed before
2 2 a court the same as other traffic violations. Filing fees and
2 3 court costs shall be assessed as provided in section 602.8106,
2 4 subsection 1 and section 805.6, subsection 1, paragraph "a"
2 5 for parking violation cases. ~~Parking violations which are~~
2 6 ~~admitted:~~
2 7 Sec. 3. Section 321.236, subsection 1, paragraphs a and b,
2 8 Code Supplement 2007, are amended to read as follows:
2 9 a. May Parking violations which are uncontested shall be
2 10 charged and collected upon a simple notice of a fine payable
2 11 to the city clerk, if authorized by ordinance. The fine for
2 12 each violation charged under a simple notice of a fine shall
2 13 be established by ordinance. The fine may be increased by
2 14 five dollars if the parking violation is not paid within
2 15 thirty days of the date upon which the violation occurred, ~~if~~

2 16 authorized by ordinance. Violations of section 321L.4,
2 17 subsection 2, ~~may shall~~ be charged and collected upon a simple
2 18 notice of a one hundred dollar fine payable to the city clerk,
~~2 19 if authorized by ordinance. No costs Costs or other charges~~
2 20 shall ~~not~~ be assessed. All fines collected by a city pursuant
2 21 to this paragraph shall be retained by the city and all fines
2 22 collected by a county pursuant to this paragraph shall be
2 23 retained by the county, except as provided by an agreement
2 24 between a city and a county treasurer for the collection of
2 25 fines pursuant to section 331.553, subsection 8.
2 26 ~~b. Notwithstanding any such ordinance, may be prosecuted~~
~~2 27 under the provisions of sections 805.7 to 805.13 or as any~~
~~2 28 other traffic violation.~~
2 29 Sec. 4. Section 364.22, subsection 4, unnumbered paragraph
2 30 1, Code 2007, is amended to read as follows:
2 31 An officer authorized by a city to enforce a city code or
2 32 regulation may issue a civil citation to a person who commits
2 33 a municipal infraction. The A copy of the citation may be
2 34 served by personal service as provided in rule of civil
2 35 procedure 1.305, by certified mail addressed to the defendant
3 1 at the defendant's last known mailing address, return receipt
3 2 requested, or by publication in the manner as provided in rule
3 3 of civil procedure 1.310 and subject to the conditions of rule
3 4 of civil procedure 1.311. A copy of the citation shall be
3 5 retained by the issuing officer, and ~~one copy the original~~
~~3 6 citation~~ shall be sent to the clerk of the district court.
3 7 The citation shall serve as notification that a civil offense
3 8 has been committed and shall contain the following
3 9 information:
3 10 Sec. 5. Section 523I.602, subsection 4, Code 2007, is
3 11 amended to read as follows:
3 12 4. RECEIPT == CEMETERY RECORD. Every such trustee shall
3 13 execute and deliver to the donor a receipt showing the amount
3 14 of money or other property received, and the use to be made of
3 15 the net proceeds from the same, duly attested by the clerk of
3 16 the court granting letters of trusteeship, ~~and a copy thereof,~~
~~3 17 signed by the trustee and so attested, shall be filed with and~~
~~3 18 recorded by the clerk in a book to be known as the cemetery~~
~~3 19 record, in which shall be recorded all reports and other~~
~~3 20 papers, including orders made by the court relative to~~
~~3 21 cemetery matters and the trustee shall keep a signed and~~
~~3 22 attested copy of the receipt.~~
3 23 Sec. 6. Section 602.1215, subsection 1, Code 2007, is
3 24 amended to read as follows:
3 25 1. Subject to the provisions of section 602.1209,
3 26 subsection 3, ~~the district judges of each chief judge of the~~
3 27 ~~judicial election district shall by majority vote appoint~~
3 28 ~~appoint~~ persons to serve as clerks of the district court
3 29 within the judicial election district. ~~The district judges of~~
~~3 30 a judicial election district chief judge may appoint a person~~
3 31 to serve as clerk of the district court for more than one but
3 32 not more than four contiguous counties in the same judicial
3 33 district. A person does not qualify for appointment to the
3 34 office of clerk of the district court unless the person is at
3 35 the time of application a resident of the state. A clerk of
4 1 the district court may be removed from office for cause by a
~~4 2 majority vote of the district judges the chief judge of the~~
4 3 ~~judicial election district. Before Prior to removal, the~~
4 4 clerk of the district court shall be notified of the cause for
4 5 removal.
4 6 Sec. 7. Section 602.8104, subsection 2, paragraph h, Code
4 7 2007, is amended by striking the paragraph.
4 8 Sec. 8. Section 602.8104, subsection 2, Code 2007, is
4 9 amended by adding the following new paragraph:
4 10 NEW PARAGRAPH. k. A record book of certificates of
4 11 deposit, not in the clerk's name, which are being held by the
4 12 clerk on behalf of a conservatorship, trust, or an estate
4 13 pursuant to a court order as provided in section 636.37.
4 14 Sec. 9. Section 602.8106, subsection 1, paragraph c, Code
4 15 Supplement 2007, is amended to read as follows:
4 16 c. For filing and docketing a complaint or information or
4 17 uniform citation and complaint for parking violations under
4 18 sections 321.236, 321.239, 321.358, 321.360, and 321.361,
4 19 eight dollars, effective January 1, 2004. The court costs in
4 20 cases of parking meter and overtime parking violations which
4 21 are ~~denied contested~~, and charged and collected pursuant to
4 22 section 321.236, subsection 1, or pursuant to a uniform
4 23 citation and complaint, are eight dollars per information or
4 24 complaint or per uniform citation and complaint effective
4 25 January 1, 1991.
4 26 Sec. 10. Section 631.4, subsection 1, paragraph a, Code

4 27 2007, is amended to read as follows:

4 28 a. If the defendant is a resident of this state, or if the
4 29 defendant is a nonresident of this state and is subject to the
4 30 jurisdiction of the court under rule of civil procedure 1.306,
4 31 the plaintiff may elect service under this paragraph, and upon
4 32 receipt of the prescribed costs the clerk shall mail to the
4 33 defendant by certified mail, restricted delivery, return
4 34 receipt to the clerk requested, a copy of the original notice
4 35 together with a conforming copy of an answer form. However,
5 1 if the defendant is a corporation, partnership, or
5 2 association, the clerk shall mail to the defendant by
5 3 certified mail, return receipt to the clerk requested, a copy
5 4 of the original notice with a conforming copy of an answer
5 5 form. The defendant is required to appear within twenty days
5 6 following the date service is made.

5 7 Sec. 11. Section 636.37, Code 2007, is amended to read as
5 8 follows:

5 9 636.37 DUTY OF CLERK.

5 10 1. The clerk of the district court with whom any deposit
5 11 of funds, moneys, or securities shall be made, as provided by
5 12 any law or an order of court, shall enter in a book, to be
5 13 provided and kept for that purpose, the amount of such
5 14 deposit, the character thereof, the date of its deposit, from
5 15 whom received, from what source derived, to whom due or to
5 16 become due, if known.

5 17 2. A separate book shall be maintained for all
5 18 certificates of deposit not in the name of the clerk of the
5 19 district court that are being held by the clerk on behalf of a
5 20 conservatorship, trust, or estate. The book shall list the
5 21 relevant details of the transaction, including but not limited
5 22 to the name of the conservator, trustee, or executor, and
5 23 cross references to the court orders opening and closing the
5 24 conservatorship, trust, or estate.

5 25 Sec. 12. Section 805.8A, subsection 1, paragraph a, Code
5 26 2007, is amended to read as follows:

5 27 a. For parking violations under sections 321.236, 321.239,
5 28 321.358, 321.360, and 321.361, the scheduled fine is five
5 29 dollars, except if the local authority has established the
5 30 fine by ordinance pursuant to section 321.236, subsection 1.
5 31 The scheduled fine for a parking violation pursuant to section
5 32 321.236 increases by five dollars, as if authorized by
5 33 ordinance pursuant to section 321.236, subsection 1, and if
5 34 the parking violation is not paid within thirty days of the
5 35 date upon which the violation occurred. For purposes of
6 1 calculating the unsecured appearance bond required under
6 2 section 805.6, the scheduled fine shall be five dollars, or if
6 3 the amount of the fine is greater than five dollars, the
6 4 unsecured appearance bond shall be the amount of the fine
6 5 established by the local authority pursuant to section
6 6 321.236, subsection 1. However, violations charged by a city
6 7 or county upon simple notice of a fine instead of a uniform
6 8 citation and complaint as permitted required by section
6 9 321.236, subsection 1, paragraph "a", are not scheduled
6 10 violations, and this section shall not apply to any offense
6 11 charged in that manner. For a parking violation under section
6 12 321.362 or 461A.38, the scheduled fine is ten dollars.

6 13 EXPLANATION

6 14 This bill relates to the judicial branch including judicial
6 15 review of state agency decisions, contested and uncontested
6 16 parking violations, filing civil citations of municipal
6 17 infractions, appointments of clerks of the district court,
6 18 records kept by the clerks, and service of original notice in
6 19 a small claims action.

6 20 The bill provides that in proceedings for judicial review
6 21 of state agency action which does not involve a contested
6 22 case, the evidence shall include a certified copy of the
6 23 decision of the agency, a transcript of any reported agency
6 24 hearing that is relevant to the agency action, relevant
6 25 documents or evidence considered by the agency in taking the
6 26 action under review, or any other relevant documents submitted
6 27 by a party.

6 28 The bill removes the clerk of the district court from
6 29 collecting uncontested parking violation fines of a city or
6 30 county.

6 31 Under the bill, when a violation of a municipal infraction
6 32 occurs and a civil penalty is assessed, a copy of the citation
6 33 shall be served on the defendant, and the original citation
6 34 shall be sent to the clerk of the district court. Current law
6 35 provides that a copy of the citation be sent to the clerk of
7 1 the district court.

7 2 The bill strikes the requirement that the clerk of the

7 3 district court keep a cemetery record book related to Code
7 4 section 523I.602.

7 5 The bill changes the method by which the clerk of the
7 6 district court is appointed. The bill permits the chief judge
7 7 of each judicial district to appoint the clerk of the district
7 8 court and remove the clerk for cause. The clerk under current
7 9 law is appointed by a majority vote of all the district judges
7 10 in the judicial election district, and removed by majority
7 11 vote.

7 12 The bill provides that the clerk of the district court
7 13 shall keep a record book of certificates of deposit that have
7 14 not been issued in the name of the clerk but are being held by
7 15 the clerk on behalf of a conservatorship, trust, or an estate.
7 16 The bill also provides that the record book shall list the
7 17 relevant details of the transaction, including but not limited
7 18 to the name of the conservator, trustee, or executor, and
7 19 cross references to the court orders opening and closing the
7 20 conservatorship, trust, or estate. Current law provides the
7 21 clerk to provide a detailed accounting of all funds deposited
7 22 with the clerk pursuant to Code section 636.37.

7 23 The bill provides that if the defendant in a small claims
7 24 action is a corporation, partnership, or association, the
7 25 clerk, to obtain service, shall mail to the defendant a copy
7 26 of the original notice, with a conforming copy of the answer
7 27 form, by certified mail, return receipt to the clerk
7 28 requested.

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