

**CHAPTER 1255**  
**UNEMPLOYMENT COMPENSATION**

*H.F. 2433*

**AN ACT** amending Iowa's unemployment compensation law by limiting the waiver of certain requirements in job bumping situations, by treating educational employees similarly for purposes of denying benefits during certain regular academic recesses, by switching the burden of producing evidence back to the employee in certain cases, by modifying certain special contribution rate requirements both prospectively and retroactively, by authorizing recomputation of employer rates in certain overpayment cases, by crediting certain earned interest to the temporary emergency surcharge fund, and by providing for contribution refunds in overpayment cases.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 96.4, subsection 3, Code Supplement 1983, is amended to read as follows:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. ~~The provision of this~~ This subsection shall be is waived if the individual is deemed temporarily unemployed as defined in section 96.19, subsection 9, paragraph "c" or. ~~The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "i".~~

Sec. 2. Section 96.4, subsection 5, Code Supplement 1983, is amended to read as follows:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 6, ~~shall be~~ are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution of higher education including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave, provided for in the individual's contract, if the individual has a contract or ~~contracts to reasonable assurance that the individual will perform services in any such capacity for any educational institution or institutions of higher education for both such academic years or both such terms.~~

b. Benefits based on service in employment, defined in section ~~96.19, subsection 6, and based on service after December 31, 1977 in an instructional, research, or principal administrative~~ any other capacity for an educational institution operated by including service in

or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such the individual performs such the services in the first of such academic years or terms and if there is a contract or has reasonable assurance that such the individual will perform services in any such capacity for any educational institution the second of such academic years or terms, or during a period of paid sabbatical leave, provided for in the individual's contract, and. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform the services for an educational institution for the second of such academic years or terms, the individual is entitled to retroactive payments of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

c. With respect to services in any other capacity for an educational institution in any capacity under paragraph a or b, benefits shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or terms if the individual performs the services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

d. With respect to any services performed after July 1, 1977, in any capacity for an educational institution other than an institution of higher education, compensation payable on the basis of such services shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such service in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such service in the period immediately following such vacation period or holiday recess. For purposes of this subsection, "educational service agency" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

e. With respect to services performed after December 31, 1977, in an instructional, research, or principal administrative capacity in an institution of higher education, compensation payable on the basis of such services shall be denied to any individual for any week which

commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

Sec. 3. Section 96.6, subsection 2, Code Supplement 1983, is amended to read as follows:

2. INITIAL DETERMINATION. A representative designated by the director shall promptly notify all interested parties to the claim of the ~~its~~ filing thereof, and the parties shall have ten days from the date of mailing the notice of the filing of ~~said~~ the claim by ordinary mail to the last known address to protest payment of benefits to ~~said~~ the claimant. The representative shall promptly examine the claim and any protest thereto, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not ~~such~~ the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and ~~the its~~ maximum duration thereof, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5. However, the claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "i", and subsection 10. Unless the claimant or other interested party, after notification or within ten calendar days after ~~such~~ notification was mailed to the claimant's last known address, files an appeal from ~~such~~ the decision, ~~such~~ the decision shall be ~~is~~ final and benefits shall be paid or denied in accordance ~~therewith~~ with it. If a hearing officer affirms a decision of the representative, or the appeal board affirms a decision of the hearing officer, allowing benefits, ~~such~~ the benefits shall be paid regardless of any appeal which ~~may~~ is thereafter be taken, but if ~~such~~ the decision is finally reversed, no employer's account shall be charged with benefits so paid.

Sec. 4. Section 96.7, subsection 3, paragraph d, unnumbered paragraph 6, Code Supplement 1983, is amended to read as follows:

During any rate year in which a rate table in rate tables three through nine is effective an employer assigned a contribution rate under this lettered paragraph is not required to contribute to the unemployment compensation trust fund if the employer's percentage of excess is seven point five percent or greater for the rate year and the employer has not been charged with benefit payments for any time within the twenty-four calendar quarters immediately preceding the rate computation date for the rate year. If an employer is not required to contribute for a rate year to the trust fund under this unnumbered paragraph but would be required to contribute for the next rate year under this lettered paragraph, the employer's contribution rate for the next rate year is either the employer's experience rate computed under this lettered paragraph or one and eight-tenths percent, whichever is less. For subsequent years, either the employer is not required to contribute under this unnumbered paragraph or the employer's contribution rate is the employer's experience rate computed under this lettered paragraph.

Sec. 5. Section 96.7, subsection 3, paragraph d, unnumbered paragraph 7, Code Supplement 1983, is amended by striking the unnumbered paragraph.

Sec. 6. Section 96.7, subsection 3, paragraph e, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:

If an employer's account is has been charged with benefits in a calendar quarter prior to the rate computation date as the result of a decision allowing benefits and the decision is reversed after the rate computation date, the employer may appeal, within thirty days from the date of the next contribution rate notice, for a recomputation of the rate. If a base period employer's account has been charged with benefits paid to an employee at a time when the employee was employed by the base period employer in the same employment as in the base period, the employer may appeal, within thirty days from the date of the first notice of the employer's contribution rate which is based on the charges, for a recomputation of the rate. The department shall remove the benefit charges from the rate computation, recompute the contribution rate, and notify the employer of the recomputed contribution rate.

Sec. 7. Section 96.7, subsection 15, unnumbered paragraph 2, Code 1983, is amended to read as follows:

A special fund to be known as the temporary emergency ~~tax~~ surcharge fund is created in the state treasury. The special fund is separate and distinct from the unemployment compensation trust fund. All contributions collected from the temporary emergency ~~tax~~ surcharge shall be deposited in the special fund. The special fund shall be used only to pay interest accruing on advance moneys received from the federal government for the payment of unemployment compensation benefits. Interest earned upon moneys in the special fund shall be deposited in and credited to the special fund.

Sec. 8. Section 96.14, subsection 5, Code 1983, is amended to read as follows:

5. REFUNDS, COMPROMISES AND SETTLEMENTS. In any case in which If the department finds that an employer has paid contributions or interest thereon on contributions, which have been erroneously paid or which have been paid solely due to benefits initially charged against but later removed from an employer's account, and who the employer has filed an application for adjustment thereof, the department shall make such an adjustment, compromise, or settlement, and make such, at the employer's option, shall either refund of erroneous the payments as it finds just and equitable in the premises or treat the payments as voluntary contributions with no limitation on the payments' effects on the employer's contribution rate. Refunds so made shall be charged to the fund to which the ~~erroneous~~ collections have been credited, and shall be paid to the claimant without interest. ~~Any~~ A claim for such refund shall be made within three years from the date of payment. For like cause, adjustments, compromises or refunds may be made by the department on its own initiative. ~~In any case in which~~ If the department finds that the contribution that has been assessed against an employer is of doubtful collectibility or may not be collected in full, the department may institute a proceeding in the district court in the county in which the ~~enterprise~~ employer against which ~~such~~ the tax is levied is located, requesting authority to compromise ~~such~~ the contribution. Notice of the filing of ~~such~~ an application shall be given to the interested parties as the court may prescribe. The court upon ~~such~~ hearing shall ~~have power to~~ may authorize the department to compromise and settle its claim for ~~such~~ the contribution and shall fix the amount to be received by the department in full settlement of ~~such~~ the claim and shall authorize the release of the department's lien for ~~such~~ the contribution.

Sec. 9. PUBLICATION. This Act, being deemed of immediate importance, takes effect from and after its publication in The Sioux City Journal, a newspaper published in Sioux City, Iowa, and in the Waterloo Courier Record, a newspaper published in Waterloo, Iowa, and is retroactive to the extent provided in section 10 of this Act.

Sec. 10. EFFECTIVE DATES. Except as otherwise provided in this section, this Act takes effect July 1 following enactment.

1. Section 2 of this Act is retroactive to April 1, 1984 and applies to benefits paid for weeks beginning on or after April 1, 1984.

2. Notwithstanding the requirement in section 6 of this Act that the recomputation appeal be made within thirty days from the date of the next contribution rate notice, an employer may appeal for a recomputation of contribution rates for calendar year 1983 or 1984, or both, within thirty days from the date of the first contribution rate notice issued on or after the effective date of this Act.

Notwithstanding the requirement in section 6 of this Act that the recomputation appeal be made within thirty days from the date of the first contribution rate notice based on the charges, an employer may appeal for a recomputation of contribution rates for calendar year 1983 or 1984, or both, within thirty days from the date of the contribution rate notice issued for calendar year 1985.

3. Sections 4 and 5 of this Act are retroactive to April 1, 1984 and apply to contributions for calendar quarters beginning on or after April 1, 1984.

4. Section 8 of this Act applies to claims for the adjustment of contributions or interest on contributions paid within the three years immediately preceding the date of the claim for adjustment.

Approved May 10, 1984

Pursuant to the authority vested in the undersigned, Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1983, there being no newspaper by the name of the Waterloo Courier Record, published in Waterloo, Iowa, I hereby designate the Waterloo Courier Cedar Falls Record published in Waterloo, Iowa to publish the foregoing Act, House File 2433.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, House File 2433 was published in the Waterloo Courier Cedar Falls Record, Waterloo, Iowa on June 12, 1984 and in The Sioux City Journal, Sioux City, Iowa on June 12, 1984.

MARY JANE ODELL, *Secretary of State*