

CHAPTER 1120

CITY SEWER OR WATER UTILITY CONNECTIONS

H.F. 2259

AN ACT relating to city sewer or water utility connections.

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

Section 1. Section 384.38, subsection 3, Code 1995, is amended to read as follows:

3. A city may establish, by ordinance or by resolution adopted as an ordinance after twenty days' notice published in accordance with section 362.3, and a public hearing ~~consistent with the requirements of section 384.50~~, one or more districts and schedules of fees for the connection of property to the city sewer or water utility. If the governing body directs that notice be made by mail, the notice shall be as required in section 384.50. Each person whose property will be served by connecting to the city sewer or water utility shall pay a connection fee to the city. The ordinance shall be certified by the city and recorded in the office of the county recorder of the county in which a district is located. The connection fees are due and payable when a utility connection application is filed with the city. A connection fee ~~shall not exceed~~ may include the equitable ~~part of the total original cost to the city of extending the utility to the properties within the district, less any part of the cost which has been previously assessed or paid to the city under this division IV, including reasonable interest from the date of construction to the date of payment~~. All fees collected under this subsection shall be paid to the city treasurer. The moneys collected as fees shall only be used for the purposes of operating the utility, or to pay debt service on obligations issued to finance improvements or extensions to the utility.

This subsection shall not apply when a city annexation plan includes annexation of an area adjoining the city and a petition has not been presented as provided in section 384.41 for a city sewer or water utility connection. Until annexation takes place, or the annexation plan is abandoned, the state mandate contained in section 455B.172, subsections 3, 4, and 5, shall not apply unless the individual property owner voluntarily pays the connection fee and requests to be connected to the city sewer or water utility.

Approved April 17, 1996

CHAPTER 1121

EMPLOYMENT SECURITY

H.F. 2229

AN ACT relating to the components of the unemployment insurance system concerning the job service advisory council, voluntary income tax withholding from unemployment benefits, relieving certain employers from certain unemployment insurance charges, employer contributions and liability for unemployment insurance benefits regarding successor employers, definitions of employment and wages for members of limited liability companies, and unemployment insurance tax liability for corporate officers, and providing an effective and applicability date.

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

Section 1. Section 96.3, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. VOLUNTARY INCOME TAX WITHHOLDING.

All payments of benefits made after December 31, 1996, are subject to the following:

a. An individual filing a new application for benefits shall, at the time of filing the application, be advised of the following:

- (1) Benefits paid under this chapter are subject to federal and state income tax.
- (2) Legal requirements exist pertaining to estimated tax payments.
- (3) The individual may elect to have federal income tax deducted and withheld from the individual's payment of benefits at the amount specified in the Internal Revenue Code as defined in section 422.3.

(4) The individual may elect to have Iowa state income tax deducted and withheld from the individual's payment of benefits at the rate of five percent.

(5) The individual shall be permitted to change the individual's previously elected withholding status.

b. Amounts deducted and withheld from benefits shall remain in the unemployment compensation fund until transferred to the appropriate taxing authority as a payment of income tax.

c. The commissioner shall follow all procedures specified by the United States department of labor, the federal internal revenue service, and the department of revenue and finance pertaining to the deducting and withholding of income tax.

d. Amounts shall be deducted and withheld under this subsection only after amounts are deducted and withheld for any overpayment of benefits, child support obligations, and any other amounts authorized to be deducted and withheld under federal or state law.

Sec. 2. Section 96.5, subsection 1, paragraph i, Code Supplement 1995, is amended to read as follows:

i. The individual is unemployed as a result of the individual's employer selling or otherwise transferring a clearly segregable and identifiable part of the employer's business or enterprise to another employer which does not make an offer of suitable work to the individual as provided under subsection 3; ~~however.~~ However, if the individual does accept, and works in and is paid wages for, suitable work with the acquiring employer, the ~~acquiring employer immediately becomes chargeable for the benefits paid which are based on the wages paid by the transferring employer~~ shall be charged to the unemployment compensation fund provided that the acquiring employer has not received, or will not receive, a partial transfer of experience under the provisions of section 96.7, subsection 2, paragraph "b". Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 3. Section 96.7, subsection 2, paragraph e, Code Supplement 1995, is amended to read as follows:

e. The division shall fix the contribution rate for each employer and notify the employer of the rate by regular mail to the last known address of the employer. An employer may appeal to the division for a revision of the contribution rate within thirty days from the date of the notice to the employer. After providing an opportunity for a hearing, the division may affirm, set aside, or modify its former determination and may grant the employer a new contribution rate. The division shall notify the employer of its decision by regular mail. Judicial review of action of the division may be sought pursuant to chapter 17A.

If an employer's account has been charged with benefits as the result of a decision allowing benefits and the decision is reversed, the employer may appeal, within thirty days from the date of the next contribution rate notice, for a recomputation of the rate. If contributions become due at a disputed contribution rate prior to the employer receiving a decision reversing benefits, the employer shall pay the contributions at the disputed rate but shall be eligible for a refund pursuant to section 96.14, subsection 5. 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.

Sec. 4. Section 96.7, subsection 7, paragraph e, Code Supplement 1995, is amended to read as follows:

e. If ~~an~~ the entire enterprise or business of a reimbursable ~~government governmental~~ entity is sold or otherwise transferred to a subsequent employing unit and the ~~successor~~ acquiring employing unit continues to operate the enterprise or business, the ~~successor~~ acquiring employing unit shall assume the position of the reimbursable ~~government governmental~~ entity with respect to the reimbursable ~~government governmental~~ entity's liability to pay the division for reimbursable benefits based on the governmental entity's payroll and reimbursable benefits to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the ~~successor employer~~ acquiring employing unit elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the ~~employer's~~ acquiring employing unit's own payroll prior to or after the sale or transfer acquisition of the governmental entity's enterprise or business.

Sec. 5. Section 96.7, subsection 8, paragraph b, subparagraph (6), Code Supplement 1995, is amended to read as follows:

(6) If ~~an~~ the entire enterprise or business of a reimbursable nonprofit organization is sold or otherwise transferred to a subsequent employing unit and the ~~successor~~ acquiring employing unit continues to operate the enterprise or business, the ~~successor~~ acquiring employing unit shall assume the position of the reimbursable nonprofit organization with respect to the nonprofit organization's liability to pay the division for reimbursable benefits based on the nonprofit organization's payroll and reimbursable benefits to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the ~~successor employer~~ acquiring employing unit elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the ~~employer's~~ acquiring employing unit's own payroll prior to or after the sale or transfer acquisition of the nonprofit organization's enterprise or business.

Sec. 6. Section 96.11, subsection 5, Code 1995, is amended by striking the subsection.

Sec. 7. Section 96.11, subsection 6, Code 1995, is amended to read as follows:

6. EMPLOYMENT STABILIZATION. The commissioner, with the advice and aid of the ~~advisory council, and through~~ the appropriate bureaus of the division, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the ~~re-employment~~ reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

Sec. 8. Section 96.14, subsection 5, Code 1995, is amended to read as follows:

5. REFUNDS, COMPROMISES AND SETTLEMENTS. If the division of job service finds that an employer has paid contributions, ~~or~~ interest on contributions, ~~or penalties,~~ which have been erroneously paid or ~~which have been paid if the employer has overpaid contributions because the employer's contribution rate was subsequently reduced pursuant to section 96.7, subsection 2, paragraph "e",~~ solely due to benefits initially charged against but later removed from an employer's account, and the employer has filed an application for adjustment refund, the division shall ~~make an adjustment, compromise, or~~

~~settlement, and, at the employer's option, shall either refund the payments or treat the payments as voluntary contributions with no limitation on the payments' effects on the employer's contribution rate~~ refund the erroneous payment or overpayment. Refunds so made shall be charged to the fund to which the collections have been credited, and shall be paid to the ~~claimant~~ employer without interest. A claim for refund shall be made within three years from the date of payment. For like cause, ~~adjustments~~ refunds, compromises, ~~or refunds~~ and settlements may be made by the division on its own initiative within three years of the date of the payment or assessment. If the division finds that the contribution that has been assessed against an employer is of doubtful collectibility or may not be collected in full, the division may institute a proceeding in the district court in the county in which the employer against which the tax is levied is located, requesting authority to compromise the contribution. Notice of the filing of an application shall be given to the interested parties as the court may prescribe. The court upon hearing may authorize the division to compromise and settle its claim for the contribution and shall fix the amount to be received by the division in full settlement of the claim and shall authorize the release of the division's lien for the contribution.

Sec. 9. Section 96.19, subsection 18, paragraph a, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) A member of a limited liability company. For such a member, the term "employment" shall not include any portion of such service that is performed in lieu of making a contribution of cash or property to acquire a membership interest in the limited liability company.

Sec. 10. Section 96.19, subsection 18, paragraph f, Code Supplement 1995, is amended to read as follows:

f. (1) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the division of ~~job service~~ that such individual has been and will continue to be free from control or direction over the performance of such services, both under the individual's contract of service and in fact.

(2) Services performed by an individual for two or more employing units shall be deemed to be employment to each employing unit for which the services are performed. However, an individual who concurrently performs services as a corporate officer for two or more related corporations and who is paid through a common paymaster that is one of the related corporations may, at the discretion of such related corporations, be considered to be in the employment of only the common paymaster.

Sec. 11. Section 96.19, subsection 41, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Any portion of the remuneration to a member of a limited liability company based on a membership interest in the company provided that the remuneration is allocated among members, and among classes of members, in proportion to their respective investments in the company. If the amount of remuneration attributable to a membership interest cannot be determined, the entire amount of remuneration shall be deemed to be based on services performed.

Sec. 12. EFFECTIVE AND APPLICABILITY DATE. The section of this Act which amends section 96.3 by enacting a new subsection 10, takes effect on January 1, 1997, and is applicable to unemployment compensation benefits paid on or after that date.

Approved April 17, 1996