



505 Fifth Avenue, Ste. 901  
Des Moines, IA 50309  
(515) 243-3576

## **Statehouse Update - 2/8/2004**

by Marty Ryan, Legislative Director

### **Legislature raising taxes!**

Why is the Iowa Civil Liberties getting involved in tax issues? What is the connection? The ACLU-IA does not often get involved in tax issues, but the Iowa Department of Public Safety has been pushing a bill for the past two sessions (Senate File 399) that is seeking a 2% increase in the criminal surcharge on fines. The 2% increase, making the surcharge a total of 32% on all fines except parking tickets, is intended to be used to update and maintain equipment at the crime lab in Ankeny.

A surcharge is a tax! Black's Law Dictionary defines a tax as a "pecuniary burden laid upon individuals or property to support the government, and is a payment exacted by legislative authority. . . Essential characteristics of a tax are that it is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority."

The ACLU-IA believes that this tax is an unjust burden upon those who are least able to pay. This practice of placing the responsibility to fund the normal everyday functions of government on a disadvantaged class of citizens is slowly becoming policy. When do we reach the pinnacle of excessive fines? Last session, the Legislature passed a bill (House File 650) that allows counties and cities to charge prisoners fees (another synonym for tax) for room and board, fingerprinting, booking, supervision, etc. Two questions arise from this escalated practice of taxing persons who have committed crimes. 1) Will the effect of this legislation backfire and cause an increase in crime because the person subjected to these taxes may eventually revert to a life of crime? The burden to pay fines, court costs, restitution, attorneys' fees, and now surcharges may become so overbearing that crime is the only alternative to making ends meet. 2) Does this tax create an unequal application of the law under Article I, section 6 of the Iowa Constitution as it applies to the recent Iowa Supreme Court ruling in RACING ASS'N OF CENTRAL IOWA v. FITZGERALD?

[http://www.judicial.state.ia.us/supreme/opinions/20040203/summary.asp?search=01-0011#\\_1](http://www.judicial.state.ia.us/supreme/opinions/20040203/summary.asp?search=01-0011#_1) (The Court ruled that a differential tax is invalid under the Iowa Constitution because it lacks a rational basis in the constitutional sense.)

Other bills that use "surcharge" to raise revenue in this financially dismal fiscal year are SF 2079 by Kreiman (D-Bloomfield), and HF 2137 by Paulsen (R-Hiawatha), Wilderdyke (R-Woodbine), Baudler (R-Greenfield) & Tjepkes (R-Gowrie). These bills establish a surcharge for certain speeding violations. The money accumulated through this tax will be placed in a fund to be spent by the Iowa Highway Patrol. We are not as concerned about this tax because it will not affect as many people. Replacing state revenue in the form of usual taxes with so-called surcharges is becoming more prevalent. The ACLU-IA intends to keep an eye on legislation making this transfer.

***What you can do:*** Discuss this issue with your legislators. Ask them, especially if they have promised to refrain from increasing taxes, if they support or oppose this measure. If they support this backdoor manner of raising taxes ask them what the difference is between a "surcharge" and a "tax," and why they support one and not the other.

### **Voting rights**

House File 402 passed out of the House State Government Committee last year and was referred back to the committee at the end of the session. This bill makes it easier for ex-felons to regain their voting rights upon final payment of all fines, court costs, restitution, "surcharges," and any other financial matters associated with their sentence. The ACLU-IA, in coalition with many other organizations, strongly supports this measure. The bill has not been given attention yet this year, most likely because it is an election year. But there may be other reasons why this bill has not been brought up for discussion in committee.

It is estimated that Iowa has over 100,000 disenfranchised ex-felons. Only a handful of other states have a similar lifetime ban on ex-felons voting, among them – Florida . The world looks to Iowa as a leader in the political process. Continuing this policy of a lifetime ban on voting is inconsistent with our values and reputation as a political leader. It is time for change.

***What you can do :*** Contact House State Government Committee Chair [Jeff Elgin](#) (R-Cedar Rapids) and urge him to bring this bill up for consideration in committee. Additionally, contact Speaker [Christopher Rants](#) and Majority Leader [Chuck Gipp](#) and ask them to consider floor debate on this bill if it passes out of committee. Also, contact [your legislators](#) and encourage them to support passage of this bill.

### **Other issues**

There are numerous issues affecting civil liberties at the State Capitol. Unfortunately, we cannot list all of them in this newsletter. If you have a question about a particular bill, issue, or concern, contact ACLU-IA Legislative Director Marty Ryan to obtain a bill's status, information, or talking points. [Contact the ACLU-IA Legislative Director](#).

We appreciate the feedback to these Updates. Please keep us informed by forwarding copies of e-mails received from legislators after you have written them about a bill or subject included in this newsletter.