



Iowa General Assembly

2006 Legal Updates

Legislative Services Agency – Legal Services Division

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Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

EXECUTIVE ORDER NUMBER 48 - TEACHER PAY-FOR-PERFORMANCE LEGISLATION

June 1, 2006

Background. The General Assembly passed House File 2792 on May 3, 2006. The Act established a Pay-for-Performance Program and allocated to the Department of Management \$1 million for FY 2006-2007, \$2.5 million for FY 2007-2008, and \$5 million for FY 2008-2009 for the program from moneys appropriated to the Student Achievement and Teacher Quality Program. The Act established a Pay-for-Performance Commission as a part of the executive branch and set forth the membership and duties of the commission. Of the amount allocated for FY 2006-2007, the Act distributes \$150,000 to the Institute for Tomorrow's Workforce, created pursuant to Code Section 7K.1, for its activities. Code Section 7K.1 creates the "Institute for Tomorrow's Workforce, an Educational Foundation" and provides a match requirement for any moneys appropriated by the General Assembly for purposes of the foundation.

Under the Act, the commission was to be composed of six voting members as follows: one classroom teacher selected jointly by the Iowa State Educational Association (ISEA) and the Professional Educators of Iowa (PEI), one principal selected by the School Administrators of Iowa (SAI), one private sector representative selected by the Iowa Business Council, one industrial engineer appointed by the American Society of Engineers, one small business private sector employer who employs at least 50 people in a targeted industry selected by the Governor, and one professional economist with a doctoral degree with experience and knowledge in student achievement using test scores to measure student progress selected by the voting members of the commission. The nonvoting members were to include one representative from the Department of Education (DOE), two members of the Senate, and two members of the House of Representatives.

The Act charged the commission with designing and implementing a pay-for-performance program and providing a study relating to teacher and staff compensation containing a pay-for-performance component and which is to measure the cost and effectiveness in raising student achievement of a compensation system that provides financial incentives based on student performance. Though the commission was established as part of the executive branch, the Act required that the Legislative Services Agency, upon request, provide technical and administrative support to the commission.

Beginning July 1, 2006, the commission must gather sufficient information to identify a program based upon student achievement gains and global content standards where student achievement gains cannot be easily measured. The commission must review pay-for-performance programs in both the public and private sector and based on this information and design a program utilizing both individual and group incentive components. At least half of any available funding identified by the commission must be designated for individual incentives.

Item Veto. While the Governor approved much of the language of H.F. 2792 regarding the program, on June 1, 2006, the Governor item vetoed portions of Section 27, subsections 1, 4, and 5 of the Act, which related to membership on the Pay-for-Performance Commission, staffing for the commission, the system for measuring student achievement to be developed by the commission, and a prohibition against individual salary adjustments for teachers who do not demonstrate a satisfactory level of performance under the program, and directions to DOE to create a teacher remediation program. The item veto message stated that the language was not part of an agreed upon negotiation and is too prescriptive.

Executive Order Number 48. Also on June 1, 2006, the Governor issued Executive Order Number 48, directing the Institute for Tomorrow's Workforce (established under Code Section 7K.1) to propose a design for a pay-for-performance program and conduct a study of the design as provided in H.F. 2792, section 27. The order further directs the institute, in developing the design, to seek input from and consult education practitioners and representatives from the Iowa

Association of School Boards, the Urban Education Network, ISEA, SAI, and PEI. The order requires that the study measure the cost and effectiveness in raising student achievement of a compensation system that provides financial incentives based on student performance. The order directs the Department of Education to provide technical and administrative assistance to the institute.

The order apparently selects the institute to perform the statutory duties of the commission, to propose the design for a pay-for-performance program and to conduct the study, by stating the following: the General Assembly created the institute in the previous year to provide a long-term forum for bold, innovative recommendations to improve Iowa's education system to meet the workforce needs of Iowa's new economy; the institute is tasked with reviewing the state's education accountability measures and identifying effective education structure and delivery models that promote optimum student achievement; the institute has recommended that Iowa increase teacher salaries and complete the state's commitment to a bold new professional teacher performance and compensation model that rewards educators for their own knowledge, skills, and practices that prepare students for the 21st century; and that the institute's membership is broad-based and reflects the awareness that meaningful and lasting educational change requires sustained support and collaboration from leaders in business, industry, government, and education.

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