

CHAPTER 1095

PUBLIC EMPLOYMENT RELATIONS

(Collective Bargaining)

S. F. 531

AN ACT relating to public employment relations and providing penalties for violations.

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

1 SECTION 1. NEW SECTION. **Public policy.** The general assembly
2 declares that it is the public policy of the state to promote harmonious
3 and cooperative relationships between government and its employees
4 by permitting public employees to organize and bargain collectively;
5 to protect the citizens of this state by assuring effective and orderly
6 operations of government in providing for their health, safety, and
7 welfare; to prohibit and prevent all strikes by public employees; and
8 to protect the rights of public employees to join or refuse to join, and
9 to participate in or refuse to participate in, employee organizations.

1 SEC. 2. NEW SECTION. **Title.** This Act shall be known as the
2 "Public Employment Relations Act".

1 SEC. 3. NEW SECTION. **Definitions.** When used in this Act, un-
2 less the context otherwise requires:

3 1. "Public employer" means the state of Iowa, its boards, commis-
4 sions, agencies, departments, and its political subdivisions including
5 school districts and other special purpose districts.

6 2. "Governing body" means the board, council, or commission,
7 whether elected or appointed, of a political subdivision of this state,
8 including school districts and other special purpose districts, which
9 determines the policies for the operation of the political subdivision.

10 3. "Public employee" means any individual employed by a public
11 employer, except individuals exempted under the provisions of section
12 four (4) of this Act.

13 4. "Employee organization" means an organization of any kind in
14 which public employees participate and which exists for the primary
15 purpose of representing public employees in their employment rela-
16 tions.

17 5. "Board" means the public employment relations board estab-
18 lished under section five (5) of this Act.

19 6. "Strike" means a public employee's refusal, in concerted action
20 with others, to report to duty, or his willful absence from his position,
21 or his stoppage of work, or his abstinence in whole or in part from the
22 full, faithful, and proper performance of the duties of employment,
23 for the purpose of inducing, influencing, or coercing a change in the
24 conditions, compensation, rights, privileges, or obligations of public
25 employment.

26 7. "Confidential employee" means any public employee who works
27 in the personnel offices of a public employer or who has access to in-
28 formation subject to use by the public employer in negotiating or who
29 works in a close continuing working relationship with public officers
30 or representatives associated with negotiating on behalf of the public
31 employer.

32 "Confidential employee" also includes the personal secretary of any
 33 of the following: any elected official or person appointed to fill a
 34 vacancy in an elective office, member of any board or commission, the
 35 administrative officer, director, or chief executive officer of a public
 36 employer or major division thereof, or the deputy or first assistant of
 37 any of the foregoing.

38 8. "Mediation" means assistance by an impartial third party to
 39 reconcile an impasse between the public employer and the employee
 40 organization through interpretation, suggestion, and advice.

41 9. "Arbitration" means the procedure whereby the parties involved
 42 in an impasse submit their differences to a third party for a final and
 43 binding decision or as provided in this Act.

44 10. "Impasse" means the failure of a public employer and the em-
 45 ployee organization to reach agreement in the course of negotiations.

46 11. "Professional employee" means any one of the following:

47 a. Any employee engaged in work:

48 (1) Predominantly intellectual and varied in character as opposed
 49 to routine mental, manual, mechanical, or physical work;

50 (2) Involving the consistent exercise of discretion and judgment in
 51 its performance;

52 (3) Of such a character that the output produced or the result ac-
 53 complished cannot be standardized in relation to a given period of
 54 time; and

55 (4) Requiring knowledge of an advanced type in a field of science
 56 or learning customarily acquired by a prolonged course of specialized
 57 intellectual instruction and study in an institution of higher learning
 58 or a hospital, as distinguished from a general academic education or
 59 from an apprenticeship or from training in the performance of routine
 60 mental, manual, or physical processes.

61 b. Any employee who (i) has completed the courses of specialized
 62 intellectual instruction and study described in subparagraph four (4)
 63 of paragraph a of this subsection, and (ii) is performing related work
 64 under the supervision of a professional person to qualify himself or
 65 herself to become a professional employee as defined in paragraph a
 66 of this subsection.

67 12. "Fact-finding" means the procedure by which a qualified person
 68 shall make written findings of fact and recommendations for resolu-
 69 tion of an impasse.

1 SEC. 4. NEW SECTION. **Exclusions.** The following public employ-
 2 ees shall be excluded from the provisions of this Act:

3 1. Elected officials and persons appointed to fill vacancies in elective
 4 offices, and members of any board or commission.

5 2. Representatives of a public employer, including the administra-
 6 tive officer, director, or chief executive officer of a public employer or
 7 major division thereof as well as his deputy, first assistant, and any
 8 supervisory employees.

9 Supervisory employee means any individual having authority in the
 10 interest of the public employer to hire, transfer, suspend, layoff, recall,
 11 promote, discharge, assign, reward or discipline other public employ-
 12 ees, or the responsibility to direct them, or to adjust their grievances,
 13 or effectively to recommend such action, if in connection with the fore-
 14 going exercise of such authority is not of a merely routine or clerical
 15 nature, but requires the use of independent judgment. All school

16 superintendents, assistant superintendents, principals, and assistant
17 principals shall be deemed to be supervisory employees.

18 3. Confidential employees.

19 4. Students working as part-time public employees twenty hours
20 per week or less, except graduate or other post-graduate students in
21 preparation for a profession who are engaged in academically related
22 employment as a teaching, research, or service assistant.

23 5. Temporary public employees employed for a period of four
24 months or less.

25 6. Commissioned and enlisted personnel of the Iowa national guard.

26 7. Judges of the supreme court, district judges, district associate
27 judges, and judicial magistrates, and the employees of such judges
28 and courts.

29 8. Patients and inmates employed, sentenced, or committed to any
30 state or local institution.

31 9. Persons employed by the state department of justice.

32 10. Persons employed by the commission for the blind.

1 **SEC. 5. NEW SECTION. Public employment relations board.**

2 1. There is established a board to be known as the public employ-
3 ment relations board. The board shall consist of three members ap-
4 pointed by the governor, with approval of two-thirds of the senate.
5 No more than two members shall be of the same political affiliation
6 and no member shall engage in any political activity while holding
7 office and the members shall devote full time to their duties.

8 Each member shall be appointed for a term of four years, except
9 that of the members first appointed, two members shall be appointed
10 for a term of two years commencing July 1, 1974 and ending June 30,
11 1976, and one member shall be appointed for a term of four years
12 commencing July 1, 1974 and ending June 30, 1978.

13 The member first appointed for a term of four years shall serve as
14 chairman and each of his successors shall also serve as chairman.

15 2. Any vacancy on the commission which may occur when the gen-
16 eral assembly is not in session shall be filled by appointment by the
17 governor, which appointment shall expire at the end of thirty days
18 following the convening of the next session of the general assembly.
19 Prior to the expiration of the thirty-day period, the governor shall
20 transmit to the senate for its approval the name of the appointee for
21 the unexpired portion of the regular term. Any vacancy occurring
22 when the general assembly is in session shall be filled in the same
23 manner as regular appointments are made, and before the end of such
24 session, and for the unexpired portion of the regular term.

25 3. In selecting the members of the board, consideration shall be
26 given to their knowledge, ability, and experience in the field of labor-
27 management relations. The chairman shall receive an annual salary
28 of twenty-four thousand (24,000) dollars. The remaining two mem-
29 bers shall each receive an annual salary equal to ninety percent of the
30 salary received by the chairman.

31 4. The board may employ such persons as are necessary for the
32 performance of its functions. Personnel of the board shall be em-
33 ployed pursuant to the provisions of chapter nineteen A (19A) of the
34 Code.

35 5. Members of the board and other employees of the board shall be
36 allowed their actual and necessary expenses incurred in the perform-

37 ance of their duties. All expenses and salaries shall be paid from
38 appropriations for such purposes and the board shall be subject to the
39 budget requirements of chapter eight (8) of the Code.

1 **SEC. 6. NEW SECTION. General powers and duties of the board.**

2 The board shall:

3 1. Administer the provisions of this Act.

4 2. Collect, for public employers other than the state and its boards,
5 commissions, departments, and agencies, data and conduct studies
6 relating to wages, hours, benefits and other terms and conditions of
7 public employment and make the same available to any interested
8 person or organization.

9 3. Maintain, after consulting with employee organizations and pub-
10 lic employers, a list of qualified persons representative of the public
11 to be available to serve as mediators and arbitrators and establish
12 their compensation rates.

13 4. Hold hearings and administer oaths, examine witnesses and docu-
14 ments, take testimony and receive evidence, issue subpoenas to compel
15 the attendance of witnesses and the production of records, and dele-
16 gate such power to a member of the board, or persons appointed or
17 employed by the board, including hearing officers for the performance
18 of its functions. The board may petition the district court at the seat
19 of government or of the county wherein any hearing is held to enforce
20 a board order compelling the attendance of witnesses and production
21 of records.

22 5. Adopt rules and regulations in accordance with the provisions of
23 chapter seventeen A (17A) of the Code as it may deem necessary to
24 carry out the purposes of this Act.

1 **SEC. 7. NEW SECTION. Public employer rights.** Public employ-
2 ers shall have, in addition to all powers, duties, and rights established
3 by constitutional provision, statute, ordinance, charter, or special act,
4 the exclusive power, duty, and the right to:

5 1. Direct the work of its public employees.

6 2. Hire, promote, demote, transfer, assign, and retain public em-
7 ployees in positions within the public agency.

8 3. Suspend or discharge public employees for proper cause.

9 4. Maintain the efficiency of governmental operations.

10 5. Relieve public employees from duties because of lack of work or
11 for other legitimate reasons.

12 6. Determine and implement methods, means, assignments and per-
13 sonnel by which the public employer's operations are to be conducted.

14 7. Take such actions as may be necessary to carry out the mission
15 of the public employer.

16 8. Initiate, prepare, certify, and administer its budget.

17 9. Exercise all powers and duties granted to the public employer by
18 law.

1 **SEC. 8. NEW SECTION. Public employee rights.** Public employ-
2 ees shall have the right to:

3 1. Organize, or form, join, or assist any employee organization.

4 2. Negotiate collectively through representatives of their own choos-
5 ing.

- 6 3. Engage in other concerted activities for the purpose of collective
7 bargaining or other mutual aid or protection insofar as any such
8 activity is not prohibited by this Act or any other law of the state.
- 9 4. Refuse to join or participate in the activities of employee organ-
10 izations, including the payment of any dues, fees or assessments or
11 service fees of any type.

1 SEC. 9. NEW SECTION. **Scope of negotiations.** The public em-
2 ployer and the employee organization shall meet at reasonable times,
3 including meetings reasonably in advance of the public employer's
4 budget-making process, to negotiate in good faith with respect to
5 wages, hours, vacations, insurance, holidays, leaves of absence, shift
6 differentials, overtime compensation, supplemental pay, seniority,
7 transfer procedures, job classifications, health and safety matters,
8 evaluation procedures, procedures for staff reduction, in-service train-
9 ing and other matters mutually agreed upon. Negotiations shall also
10 include terms authorizing dues checkoff for members of the employee
11 organization and grievance procedures for resolving any questions
12 arising under the agreement, which shall be embodied in a written
13 agreement and signed by the parties. If an agreement provides for
14 dues checkoff, a member's dues may be checked off only upon the mem-
15 ber's written request and the member may terminate the dues checkoff
16 at any time by giving thirty days written notice. Such obligation to
17 negotiate in good faith does not compel either party to agree to a
18 proposal or make a concession.

19 Nothing in this section shall diminish the authority and power of
20 the merit employment department, board of regents' merit system,
21 educational radio and television facility board's merit system, or any
22 civil service commission established by constitutional provision, stat-
23 ute, charter or special act to recruit employees, prepare, conduct, and
24 grade examinations, rate candidates in order of their relative scores
25 for certification for appointment or promotion or for other matters
26 of classification, reclassification or appeal rights in the classified
27 service of the public employer served.

28 The public employee retirement systems provided under chapters
29 ninety-seven A (97A), ninety-seven B (97B), four hundred ten (410),
30 and four hundred eleven (411) of the Code shall be excluded from the
31 scope of negotiations.

1 SEC. 10. NEW SECTION. **Prohibited practices.**

2 1. It shall be a prohibited practice for any public employer, public
3 employee, or employee organization to willfully refuse to negotiate in
4 good faith with respect to the scope of negotiations as defined in sec-
5 tion nine (9) of this Act.

6 2. It shall be a prohibited practice for a public employer or his
7 designated representative willfully to:

8 a. Interfere with, restrain, or coerce public employees in the exer-
9 cise of rights granted by this Act.

10 b. Dominate or interfere in the administration of any employee or-
11 ganization.

12 c. Encourage or discourage membership in any employee organiza-
13 tion, committee, or association by discrimination in hiring, tenure, or
14 other terms or conditions of employment.

15 d. Discharge or discriminate against a public employee because he
16 has filed an affidavit, petition, or complaint or given any information
17 or testimony under this Act, or because he has formed, joined, or
18 chosen to be represented by any employee organization.

19 e. Refuse to negotiate collectively with representatives of certified
20 employee organizations as required in this Act.

21 f. Deny the rights accompanying certification or exclusive recogni-
22 tion granted in this Act.

23 g. Refuse to participate in good faith in any agreed upon impasse
24 procedures or those set forth in this Act.

25 h. Engage in a lockout.

26 3. It shall be a prohibited practice for public employees or an em-
27 ployee organization or for any person, union, or organization or their
28 agents willfully to:

29 a. Interfere with, restrain, coerce, or harass any public employee
30 with respect to any of his rights under this Act or in order to prevent
31 or discourage his exercise of any such right, including, without limi-
32 tation, all rights under section eight (8) of this Act.

33 b. Interfere, restrain, or coerce a public employer with respect to
34 rights granted in this Act or with respect to selecting a representative
35 for the purposes of negotiating collectively on the adjustment of
36 grievances.

37 c. Refuse to bargain collectively with a public employer as required
38 in this Act.

39 d. Refuse to participate in good faith in any agreed upon impasse
40 procedures or those set forth in this Act.

41 e. Violate section twelve (12) of this Act.

42 f. Violate the provisions of chapter seven hundred thirty-six B
43 (736B), sections one (1), two (2) and three (3) of the Code, which
44 are hereby made applicable to public employers, public employees and
45 public employee organizations.

46 g. Picket in a manner which interferes with ingress and egress to
47 the facilities of the public employer.

48 h. Engage in, initiate, sponsor or support any picketing that is per-
49 formed in support of a strike, work stoppage, boycott or slowdown
50 against a public employer.

51 i. Picket for any unlawful purpose.

52 4. The expressing of any views, argument, or opinion, or the dis-
53 semination thereof, whether in written, printed, graphic, or visual
54 form, shall not constitute or be evidence of any unfair labor practice
55 under any of the provisions of this Act, if such expression contains no
56 threat of reprisal or force or promise of benefit.

1 SEC. 11. NEW SECTION. **Prohibited practice violations.**

2 1. Proceedings against a party alleging a violation of section ten
3 (10) of this Act, shall be commenced by filing a complaint with the
4 board within ninety days of the alleged violation causing a copy of
5 the complaint to be served upon the accused party in the manner of an
6 original notice as provided in this Act. The accused party shall have
7 ten days within which to file a written answer to the complaint.
8 However, the board may conduct a preliminary investigation of the
9 alleged violation, and if the board determines that the complaint
10 has no basis in fact, the board may dismiss the complaint. The
11 board shall promptly thereafter set a time and place for hearing in the

12 county where the alleged violation occurred. The parties shall be per-
13 mitted to be represented by counsel, summon witnesses, and request
14 the board to subpoena witnesses on the requestor's behalf. Compliance
15 with the technical rules of pleading and evidence shall not be required.

16 2. The board may designate a hearing officer to conduct the hearing.
17 The hearing officer shall have such powers as may be exercised by the
18 board for conducting the hearing and shall follow the procedures
19 adopted by the board for conducting the hearing. The decision of the
20 hearing officer may be appealed to the board and the board may hear
21 the case de novo or upon the record as submitted before the hearing
22 officer, utilizing procedures governing appeals to the district court in
23 this section so far as applicable.

24 3. The board shall appoint a certified shorthand reporter to report
25 the proceedings and the board shall fix the reasonable amount of com-
26 pensation for such service, which amount shall be taxed as other costs.

27 4. The board shall file its findings of fact and conclusions of law.
28 If the board finds that the party accused has committed a prohibited
29 practice, the board may, within thirty days of its decision, enter into
30 a consent order with the party to discontinue the practice, or petition
31 the district court for injunctive relief pursuant to chapter six hundred
32 sixty-four (664) of the Code.

33 5. Any party aggrieved by any decision or order of the board may
34 within ten days from the date such decision or order is filed, appeal
35 therefrom to the district court of the county in which the hearing was
36 held, by filing with the board a written notice of appeal setting forth
37 in general terms the decision appealed from and the grounds of the
38 appeal. The board shall forthwith give notice to the other parties in
39 interest.

40 6. Within thirty days after a notice of appeal is filed with the board,
41 it shall make, certify, and file in the office of the clerk of court to
42 which the appeal is taken, a full and complete transcript of all docu-
43 ments in the case, including any depositions and a transcript or cer-
44 tificate of the evidence together with the notice of appeal.

45 7. The appeal shall be triable at any time after the expiration of
46 twenty days from the date of filing the transcript by the board and
47 after twenty days notice in writing by either party and the board upon
48 the other.

49 8. The transcript as certified and filed by the board shall be the
50 record on which the appeal shall be heard, and no additional evidence
51 shall be heard. In the absence of fraud, the findings of fact made by
52 the board shall be conclusive if supported by substantial evidence on
53 the record considered as a whole.

54 9. Any order or decision of the board may be modified, reversed, or
55 set aside on one or more of the following grounds and on no other:

- 56 a. If the board acts without or in excess of its powers.
57 b. If the order was procured by fraud or is contrary to law.
58 c. If the facts found by the board do not support the order.
59 d. If the order is not supported by a preponderance of the competent
60 evidence on the record considered as a whole.

61 10. When the district court, on appeal, reverses or sets aside an
62 order or decision of the board, it may remand the case to the board for
63 further proceedings in harmony with the holdings of the court, or it
64 may enter the proper judgment, as the case may be. Such judgment or

65 decree shall have the same force and effect as if action had been
66 originally brought and tried in said court. The assessment of costs in
67 such appeals shall be in the discretion of the court.

68 11. An appeal may be taken to the supreme court from any final
69 order, judgment, or decree of the district court.

1 SEC. 12. NEW SECTION. **Strikes prohibited.**

2 1. It shall be unlawful for any public employee or any employee
3 organization, directly or indirectly, to induce, instigate, encourage,
4 authorize, ratify, or participate in a strike against any public em-
5 ployer.

6 2. It shall be unlawful for any public employer to authorize, con-
7 sent to, or condone a strike; or to pay or agree to pay any public
8 employee for any day in which the employee participates in a strike;
9 or to pay or agree to pay any increase in compensation or benefits to
10 any public employee in response to or as a result of any strike or any
11 act which violates subsection one (1) of this section. It shall be unlaw-
12 ful for any official, director, or representative of any public employer
13 to authorize, ratify, or participate in any violation of this subsection.
14 Nothing in this subsection shall prevent new or renewed bargaining
15 and agreement within the scope of negotiations as defined by this Act,
16 at any time after such violation of subsection one (1) has ceased;
17 but it shall be unlawful for any public employer or employee organ-
18 ization to bargain at any time regarding suspension or modification
19 of any penalty provided in this section or regarding any request by
20 the public employer to a court for such suspension or modification.

21 3. In the event of any violation or imminently threatened violation
22 of subsection one (1) or two (2) of this section, any citizen domiciled
23 within the jurisdictional boundaries of the public employer may peti-
24 tion the district court for the county in which the violation occurs or
25 the district court for Polk county for an injunction restraining such
26 violation or imminently threatened violation. Chapter six hundred
27 sixty-four (664) of the Code and the pertinent rules of civil procedure
28 regarding injunctions shall apply. However, the court shall grant a
29 temporary injunction if it appears to the court that a violation has
30 occurred or is imminently threatened; the plaintiff need not show that
31 the violation or threatened violation would greatly or irreparably
32 injure him; and no bond shall be required of the plaintiff unless the
33 court determines that a bond is necessary in the public interest. Fail-
34 ure to comply with any temporary or permanent injunction granted
35 pursuant to this section shall constitute a contempt punishable pur-
36 suant to chapter six hundred sixty-five (665) of the Code. The punish-
37 ment shall not exceed five hundred dollars for an individual, or ten
38 thousand dollars for an employee organization or public employer, for
39 each day during which the failure to comply continues, or imprison-
40 ment in a county jail not exceeding six months, or both such fine and
41 imprisonment. An individual or an employee organization which
42 makes an active good faith effort to comply fully with the injunction
43 shall not be deemed to be in contempt.

44 4. If a public employee is held to be in contempt of court for failure
45 to comply with an injunction pursuant to this section, or is convicted
46 of violating this section, he shall be ineligible for any employment by
47 the same public employer for a period of twelve months. His public

48 employer shall immediately discharge him, but upon his request the
49 court shall stay his discharge to permit further judicial proceedings.

50 5. If an employee organization or any of its officers is held to be in
51 contempt of court for failure to comply with an injunction pursuant
52 to this section, or is convicted of violating this section, the employee
53 organization shall be immediately decertified, shall cease to represent
54 the bargaining unit, shall cease to receive any dues by checkoff, and
55 may again be certified only after twelve months have elapsed from the
56 effective date of decertification and only after a new compliance with
57 section fourteen (14) of this Act. The penalties provided in this sec-
58 tion may be suspended or modified by the court, but only upon request
59 of the public employer and only if the court determines the suspension
60 or modification is in the public interest.

61 6. Each of the remedies and penalties provided by this section is
62 separate and several, and is in addition to any other legal or equitable
63 remedy or penalty.

1 **SEC. 13. NEW SECTION. Bargaining unit determination.**

2 1. Board determination of an appropriate bargaining unit shall be
3 upon petition filed by a public employer, public employee, or employee
4 organization.

5 2. Within thirty days of receipt of a petition or notice to all inter-
6 ested parties if on its own initiative, the board shall conduct a public
7 hearing, receive written or oral testimony, and promptly thereafter
8 file an order defining the appropriate bargaining unit. In defining the
9 unit, the board shall take into consideration, along with other relevant
10 factors, the principles of efficient administration of government, the
11 existence of a community of interest among public employees, the
12 history and extent of public employee organization, geographical loca-
13 tion, and the recommendations of the parties involved.

14 3. Appeals from such order shall be governed by appeal provisions
15 provided in section eleven (11) of this Act.

16 4. Professional and nonprofessional employees shall not be included
17 in the same bargaining unit unless a majority of both agree.

1 **SEC. 14. NEW SECTION. Bargaining representative determination.**

2 1. Board certification of an employee organization as the exclusive
3 bargaining representative of a bargaining unit shall be upon a petition
4 filed with the board by a public employer, public employee, or an
5 employee organization and an election conducted pursuant to section
6 fifteen (15) of this Act.

7 2. The petition of an employee organization shall allege that:

8 a. The employee organization has submitted a request to a public
9 employer to bargain collectively with a designated group of public
10 employees.

11 b. The petition is accompanied by written evidence that thirty per-
12 cent of such public employees are members of the employee organiza-
13 tion or have authorized it to represent them for the purposes of collec-
14 tive bargaining.

15 3. The petition of a public employee shall allege that an employee
16 organization which has been certified as the bargaining representa-
17 tive does not represent a majority of such public employees and that
18 the petitioners do not want to be represented by an employee organ-
19 ization or seek certification of an employee organization.

20 4. The petition of a public employer shall allege that it has received
21 a request to bargain from an employee organization which has not
22 been certified as the bargaining representative of the public employees
23 in an appropriate bargaining unit.

24 5. The board shall investigate the allegations of any petition and
25 shall give reasonable notice of the receipt of such a petition to all
26 public employees, employee organizations and public employers named
27 or described in such petitions or interested in the representation ques-
28 tioned. The board shall thereafter call an election under section fifteen
29 (15) of this Act, unless:

30 a. It finds that less than thirty percent of the public employees in
31 the unit appropriate for collective bargaining support the petition for
32 decertification or for certification.

33 b. The appropriate bargaining unit has not been determined pur-
34 suant to section thirteen (13) of this Act.

35 6. The hearing and appeal procedures shall be the same as provided
36 in section eleven (11) of this Act.

1 SEC. 15. NEW SECTION. Elections.

2 1. Upon the filing of a petition for certification of an employee
3 organization, the board shall submit two questions to the public em-
4 ployees at an election in an appropriate bargaining unit. The first
5 question on the ballot shall permit the public employees to determine
6 whether or not such public employees desire exclusive bargaining
7 representation. The second question on the ballot shall list any em-
8 ployee organization which has petitioned for certification or which
9 has presented proof satisfactory to the board of support of ten percent
10 or more of the public employees in the appropriate unit.

11 2. If a majority of the votes cast on the first question are in the
12 negative, the public employees shall not be represented by an em-
13 ployee organization. If a majority of the votes cast on the first
14 question is in the affirmative, then the employee organization receiv-
15 ing a majority of the votes cast on the second question shall represent
16 the public employees in an appropriate bargaining unit.

17 3. If none of the choices on the ballot receive the vote of a majority
18 of the public employees who could be represented by an employee
19 organization, the board shall conduct a runoff election among the two
20 choices receiving the greatest number of votes.

21 4. Upon written objections filed by any party to the election within
22 ten days after notice of the results of the election, if the board finds
23 that misconduct or other circumstances prevented the public employees
24 eligible to vote from freely expressing their preferences, the board
25 may invalidate the election and hold a second election for the public
26 employees.

27 5. Upon completion of a valid election in which the majority choice
28 of the employees who could be represented by an employee organiza-
29 tion is determined, the board shall certify the results of the election
30 and shall give reasonable notice of the order to all employee organiza-
31 tions listed on the ballot, the public employers, and the public employ-
32 ees in the appropriate bargaining unit.

33 6. A petition for certification as an exclusive bargaining representa-
34 tive shall not be considered by the board for a period of one year from
35 the date of the certification or noncertification of an exclusive bargain-
36 ing representative or during the duration of a collective bargaining

37 agreement which shall not exceed two years. A collective bargaining
38 agreement with the state, its boards, commissions, departments, and
39 agencies shall be for two years and the effective date of any such agree-
40 ment shall be July first of odd-numbered years. However, if a petition
41 for decertification is filed during the duration of a collective bargaining
42 agreement, the board shall award an election under this section not
43 more than one hundred eighty days nor less than one hundred fifty
44 days prior to the expiration of the collective bargaining agreement.
45 If an employee organization is decertified, the board may receive peti-
46 tions under section fourteen (14) of this Act, provided that no such
47 petition and no election conducted pursuant to such petition within
48 one year from decertification shall include as a party the decertified
49 employee organization.

1 **SEC. 16. NEW SECTION. Duty to bargain.** Upon the receipt by a
2 public employer of a request from an employee organization to bargain
3 on behalf of public employees, the duty to engage in collective bargain-
4 ing shall arise if the employee organization has been certified by the
5 board as the exclusive bargaining representative for the public em-
6 ployees in that bargaining unit.

1 **SEC. 17. NEW SECTION. Procedures.**

2 1. The employee organization certified as the bargaining representa-
3 tive shall be the exclusive representative of all public employees in the
4 bargaining unit and shall represent all public employees fairly. How-
5 ever, any public employee may meet and adjust individual complaints
6 with a public employer.

7 2. The employee organization and the public employer may desig-
8 nate any individual as its representative to engage in collective bar-
9 gaining negotiations.

10 3. Negotiating sessions, including strategy meetings of public em-
11 ployers or employee organizations, mediation and the deliberative
12 process of arbitrators shall be exempt from the provisions of chapter
13 twenty-eight A (28A) of the Code. Hearings conducted by arbitrators
14 shall be open to the public.

15 4. The terms of a proposed collective bargaining agreement shall be
16 made public and reasonable notice shall be given to the public employ-
17 ees prior to a ratification election. The collective bargaining agree-
18 ment shall become effective only if ratified by a majority of those
19 voting by secret ballot.

20 5. Terms of any collective bargaining agreement may be enforced
21 by a civil action in the district court of the county in which the agree-
22 ment was made upon the initiative of either party.

23 6. No collective bargaining agreement or arbitrators' decision shall
24 be valid or enforceable if its implementation would be inconsistent
25 with any statutory limitation on the public employer's funds, spend-
26 ing, or budget or would substantially impair or limit the performance
27 of any statutory duty by the public employer. A collective bargaining
28 agreement or arbitrators' award may provide for benefits conditional
29 upon specified funds to be obtained by the public employer, but the
30 agreement shall provide either for automatic reduction of such condi-
31 tional benefits or for additional bargaining if the funds are not
32 obtained or if a lesser amount is obtained.

33 7. If agreed to by the parties nothing in this Act shall be construed
34 to prohibit supplementary bargaining on behalf of public employees

35 in a part of the bargaining unit concerning matters uniquely affecting
 36 those public employees or cooperation and coordination of bargaining
 37 between two or more bargaining units.

38 8. The salaries of all public employees of the state under a merit
 39 system and all other fringe benefits which are granted to all public
 40 employees of the state shall be negotiated with the governor or his
 41 designee on a statewide basis, except those benefits which are not sub-
 42 ject to negotiations pursuant to the provisions of section nine (9) of
 43 this Act.

44 9. A public employee or any employee organization shall not nego-
 45 tiate or attempt to negotiate directly with a member of the governing
 46 board of a public employer if the public employer has appointed or
 47 authorized a bargaining representative for the purpose of bargaining
 48 with the public employees or their representative, unless the member
 49 of the governing board is the designated bargaining representative of
 50 the public employer.

1 SEC. 18. NEW SECTION. **Grievance procedures.** An agreement
 2 with an employee organization which is the exclusive representative
 3 of public employees in an appropriate unit may provide procedures
 4 for the consideration of public employee grievances and of disputes
 5 over the interpretation and application of agreements. Negotiated
 6 procedures may provide for binding arbitration of public employee
 7 grievances and of disputes over the interpretation and application of
 8 existing agreements. An arbitrator's decision on a grievance may not
 9 change or amend the terms, conditions or applications of the collective
 10 bargaining agreement. Such procedures shall provide for the invoking
 11 of arbitration only with the approval of the employee organization,
 12 and in the case of an employee grievance, only with the approval of
 13 the public employee. The costs of arbitration shall be shared equally
 14 by the parties.

15 Public employees of the state shall follow either the grievance pro-
 16 cedures provided in a collective bargaining agreement, or in the event
 17 that no such procedures are so provided, shall follow grievance proce-
 18 dures established pursuant to chapter nineteen A (19A) of the Code.

1 SEC. 19. NEW SECTION. **Impasse procedures—agreement of par-**
 2 **ties.** As the first step in the performance of their duty to bargain,
 3 the public employer and the employee organization shall endeavor to
 4 agree upon impasse procedures. Such agreement shall provide for
 5 implementation of these impasse procedures not later than one hun-
 6 dred twenty days prior to the certified budget submission date of the
 7 public employer. If the parties fail to agree upon impasse procedures
 8 under the provisions of this section, the impasse procedures provided
 9 in sections twenty (20), twenty-one (21) and twenty-two (22) of this
 10 Act shall apply.

1 SEC. 20. NEW SECTION. **Mediation.** In the absence of an im-
 2 passe agreement between the parties or the failure of either party to
 3 utilize its procedures, one hundred twenty days prior to the certified
 4 budget submission date, the board shall, upon the request of either
 5 party, appoint an impartial and disinterested person to act as medi-
 6 ator. It shall be the function of the mediator to bring the parties
 7 together to effectuate a settlement of the dispute, but the mediator
 8 may not compel the parties to agree.

1 **SEC. 21. NEW SECTION. Fact-finding.** If the impasse persists
2 ten days after the mediator has been appointed, the board shall appoint
3 a fact-finder representative of the public, from a list of qualified per-
4 sons maintained by the board. The fact-finder shall conduct a hearing,
5 may administer oaths, and may request the board to issue subpoenas.
6 The fact-finder shall make written findings of facts and recommenda-
7 tions for resolution of the dispute and, not later than fifteen days from
8 the day of appointment, shall serve such findings on the public em-
9 ployer and the certified employee organization.

10 The public employer and the certified employee organization shall
11 immediately accept the fact-finder's recommendation or shall within
12 five days submit the fact-finder's recommendations to the governing
13 body and members of the certified employee organization for accept-
14 ance or rejection. If the dispute continues ten days after the report is
15 submitted, the report shall be made public by the board.

1 **SEC. 22. NEW SECTION. Binding arbitration.**

2 1. If an impasse persists after the findings of fact and recommenda-
3 tions are made public by the fact-finder, the parties may continue to
4 negotiate or, the board shall have the power, upon request of either
5 party, to arrange for arbitration, which shall be binding. The request
6 for arbitration shall be in writing and a copy of the request shall be
7 served upon the other party.

8 2. Each party shall submit to the board within four days of request
9 a final offer on the impasse items with proof of service of a copy upon
10 the other party. Each party shall also submit a copy of a draft of the
11 proposed collective bargaining agreement to the extent to which agree-
12 ment has been reached and the name of its selected arbitrator. The
13 parties may continue to negotiate all offers until an agreement is
14 reached or a decision rendered by the panel of arbitrators.

15 As an alternative procedure, the two parties may agree to submit
16 the dispute to a single arbitrator. If the parties cannot agree on the
17 arbitrator within four days, the selection shall be made pursuant to
18 subsection five (5) of this section. The full costs of arbitration under
19 this provision shall be shared equally by the parties to the dispute.

20 3. The submission of the impasse items to the arbitrators shall be
21 limited to those issues that had been considered by the fact-finder and
22 upon which the parties have not reached agreement. With respect to
23 each such item, the arbitration board award shall be restricted to the
24 final offers on each impasse item submitted by the parties to the arbi-
25 tration board or to the recommendation of the fact-finder on each
26 impasse item.

27 4. The panel of arbitrators shall consist of three members appointed
28 in the following manner:

29 a. One member shall be appointed by the public employer.

30 b. One member shall be appointed by the employee organization.

31 c. One member shall be appointed mutually by the members appoint-
32 ed by the public employer and the employee organization. The last
33 member appointed shall be the chairman of the panel of arbitrators.

34 No member appointed shall be an employee of the parties.

35 d. The public employer and employee organization shall each pay
36 the fees and expenses incurred by the arbitrator each selected. The

37 fee and expenses of the chairman of the panel and all other costs of
38 arbitration shall be shared equally.

39 5. If the third member has not been selected within four days of
40 notification as provided in subsection two (2) of this section, a list of
41 three arbitrators shall be submitted to the parties by the board. The
42 two arbitrators selected by the public employer and the employee
43 organization shall determine by lot which arbitrator shall remove the
44 first name from the list submitted by the board. The arbitrator having
45 the right to remove the first name shall do so within two days and the
46 second arbitrator shall have one additional day to remove one of the
47 two remaining names. The person whose name remains shall become
48 the chairman of the panel of arbitrators and shall call a meeting within
49 ten days at a location designated by him.

50 6. If a vacancy should occur on the panel of arbitrators, the selec-
51 tion for replacement of such member shall be in the same manner and
52 within the same time limits as the original member was chosen. No
53 final selection under subsection nine (9) of this section shall be made
54 by the board until the vacancy has been filled.

55 7. The panel of arbitrators shall at no time engage in an effort to
56 mediate or otherwise settle the dispute in any manner other than that
57 prescribed in this section.

58 8. From the time of appointment until such time as the panel of
59 arbitrators makes its final determination, there shall be no discussion
60 concerning recommendations for settlement of the dispute by the
61 members of the panel of arbitrators with parties other than those who
62 are direct parties to the dispute. The panel of arbitrators may conduct
63 formal or informal hearings to discuss offers submitted by both
64 parties.

65 9. The panel of arbitrators shall consider, in addition to any other
66 relevant factors, the following factors:

67 a. Past collective bargaining contracts between the parties includ-
68 ing the bargaining that led up to such contracts.

69 b. Comparison of wages, hours and conditions of employment of the
70 involved public employees with those of other public employees doing
71 comparable work, giving consideration to factors peculiar to the area
72 and the classifications involved.

73 c. The interests and welfare of the public, the ability of the public
74 employer to finance economic adjustments and the effect of such
75 adjustments on the normal standard of services.

76 d. The power of the public employer to levy taxes and appropriate
77 funds for the conduct of its operations.

78 10. The chairman of the panel of arbitrators may hold hearings and
79 administer oaths, examine witnesses and documents, take testimony
80 and receive evidence, issue subpoenas to compel the attendance of wit-
81 nesses and the production of records, and delegate such powers to
82 other members of the panel of arbitrators. The chairman of the panel
83 of arbitrators may petition the district court at the seat of government
84 or of the county in which any hearing is held to enforce the order of
85 the chairman compelling the attendance of witnesses and the produc-
86 tion of records.

87 11. A majority of the panel of arbitrators shall select within fifteen
88 days after its first meeting the most reasonable offer, in its judgment,

89 of the final offers on each impasse item submitted by the parties, or
90 the recommendations of the fact-finder on each impasse item.

91 12. The selections by the panel of arbitrators and items agreed upon
92 by the public employer and the employee organization, shall be deemed
93 to be the collective bargaining agreement between the parties.

94 13. The determination of the panel of arbitrators shall be by major-
95 ity vote and shall be final and binding subject to the provisions of
96 section seventeen (17), subsection six (6), of this Act. The panel of
97 arbitrators shall give written explanation for its selection and inform
98 the parties of its decision.

1 SEC. 23. NEW SECTION. **Legal actions.** Any employee organiza-
2 tion and public employer may sue or be sued as an entity under the
3 provisions of this Act. Service upon the public employer shall be in
4 accordance with law or the rules of civil procedure. Nothing in this
5 Act shall be construed to make any individual or his assets liable for
6 any judgment against a public employer or an employee organization.

1 SEC. 24. NEW SECTION. **Notice and service.** Any notice required
2 under the provisions of this Act shall be in writing, but service
3 thereof shall be sufficient if mailed by restricted certified mail, return
4 receipt requested addressed to the last known address of the parties,
5 unless otherwise provided in this Act. Refusal of restricted certified
6 mail by any party shall be considered service. Prescribed time periods
7 shall commence from the date of the receipt of the notice. Any party
8 may at any time execute and deliver an acceptance of service in lieu
9 of mailed notice.

1 SEC. 25. NEW SECTION. **Internal conduct of employee organiza-**
2 **tions.**

3 1. Every employee organization which is certified as a representa-
4 tive of public employees under the provisions of this Act shall file with
5 the board a registration report, signed by its president or other appro-
6 priate officer. The report shall be in a form prescribed by the board
7 and shall be accompanied by two copies of the employee organization's
8 constitution and bylaws. A filing by a national or international em-
9 ployee organization of its constitution and bylaws shall be accepted in
10 lieu of a filing of such documents by each subordinate organization.
11 All changes or amendments to such constitutions and bylaws shall be
12 promptly reported to the board.

13 2. Every employee organization shall file with the board an annual
14 report and an amended report whenever changes are made. The
15 reports shall be in a form prescribed by the board, and shall provide
16 the following information:

17 a. The names and addresses of the organization, any parent organ-
18 ization or organizations with which it is affiliated, the principal offi-
19 cers, and all representatives.

20 b. The name and address of its local agent for service of process.

21 c. A general description of the public employees the organization
22 represents or seeks to represent.

23 d. The amounts of the initiation fee and monthly dues members
24 must pay.

25 e. A pledge, in a form prescribed by the board, that the organiza-
26 tion will comply with the laws of the state and that it will accept

27 members without regard to age, race, sex, religion, national origin,
28 or physical disability as provided by law.

29 f. A financial report and audit.

30 3. The constitution or bylaws of every employee organization shall
31 provide that:

32 a. Accurate accounts of all income and expenses shall be kept, and
33 annual financial report and audit shall be prepared, such accounts
34 shall be open for inspection by any member of the organization, and
35 loans to officers and agents shall be made only on terms and conditions
36 available to all members.

37 b. Business or financial interests of its officers and agents, their
38 spouses, minor children, parents, or otherwise, that conflict with the
39 fiduciary obligation of such persons to the organization shall be pro-
40 hibited.

41 c. Every official or employee of an employee organization who han-
42 dles funds or other property of the organization, or trust in which an
43 organization is interested, or a subsidiary organization, shall be
44 bonded. The amount, scope, and form of the bond shall be deter-
45 mined by the board.

46 4. The governing rules of every employee organization shall provide
47 for periodic elections by secret ballot subject to recognized safeguards
48 concerning the equal right of all members to nominate, seek office, and
49 vote in such elections, the right of individual members to participate
50 in the affairs of the organization, and fair and equitable procedures in
51 disciplinary actions.

52 5. The board shall prescribe rules and regulations necessary to gov-
53 ern the establishment and reporting of trusteeships over employee
54 organizations. Establishment of such trusteeships shall be permitted
55 only if the constitution or bylaws of the organization set forth reason-
56 able procedures.

57 6. An employee organization that has not registered or filed an
58 annual report, or that has failed to comply with other provisions of this
59 Act, shall not be certified. Certified employee organizations failing to
60 comply with this Act may have such certification revoked by the board.
61 Prohibitions may be enforced by injunction upon the petition of the
62 board to the district court of the county in which the violation occurs.
63 Complaints of violation of this section shall be filed with the board.

64 7. Upon the written request of any member of a certified employee
65 organization, the auditor of state may audit the financial records of
66 the certified employee organization.

1 SEC. 26. NEW SECTION. **Employee organizations — political con-**
2 **tributions.** An employee organization shall not make any direct or
3 indirect contribution out of the funds of the employee organization to
4 any political party or organization or in support of any candidate for
5 elective public office.

6 Any employee organization which violates the provisions of this
7 section or fails to file any required report or affidavit or files a false
8 report or affidavit shall, upon conviction, be subject to a fine of not
9 more than two thousand dollars.

10 Any person who willfully violates this section, or who makes a false
11 statement knowing it to be false, or who knowingly fails to disclose a
12 material fact shall, upon conviction, be subject to a fine or not more
13 than one thousand dollars or imprisoned for not more than thirty days

14 or shall be subject to both such fine and imprisonment. Each indi-
 15 vidual required to sign affidavits or reports under this section shall be
 16 personally responsible for filing such report or affidavit and for any
 17 statement contained therein he knows to be false.

18 Nothing in this section shall be construed to prohibit voluntary con-
 19 tributions by individuals to political parties or candidates.

20 Nothing in this section shall be construed to limit or deny any civil
 21 remedy which may exist as a result of action which may violate this
 22 section.

1 SEC. 27. Section nineteen A point nine (19A.9), subsection two
 2 (2), Code 1973, is amended to read as follows:

3 2. For a pay plan within the purview of an appropriation made by
 4 the general assembly and not otherwise provided by law for all em-
 5 ployees in the merit system, after consultation with appointing author-
 6 ities *with due regard to the results of a collective bargaining agree-*
 7 *ment negotiated under the provisions of this Act* and after a public
 8 hearing held by the commission. Such pay plan shall become effective
 9 only after it has been approved by the executive council after sub-
 10 mission from the commission. Review of the pay plan for revisions
 11 shall be made in the same manner at the discretion of the director, but
 12 not less than annually. *The annual review by the director shall be*
 13 *made available to the governor a sufficient time in advance of collec-*
 14 *tive bargaining negotiations to permit its recommendations to be con-*
 15 *sidered during such negotiations.* Each employee shall be paid at one
 16 of the rates set forth in the pay plan for the class of position in which
 17 employed and, unless otherwise designated by the commission, shall
 18 begin employment at the first step of the established range for his
 19 class. Unless otherwise established by law, the governor, with the
 20 approval of the executive council, shall establish a pay plan for all
 21 exempt positions in the executive branch of government except for
 22 employees of the governor, board of regents, the state educational
 23 radio and television facility board, the superintendent of public in-
 24 struction and members of the professional staff of the department of
 25 public instruction, appointed under the provisions of section 257.24,
 26 who possess a current, valid teacher's certificate or who are assigned
 27 to vocational activities or programs, the commission for the blind,
 28 members of the Iowa highway safety patrol and other peace officers,
 29 as defined in section 97A.1, employed by the department of public
 30 safety, and officers and enlisted men of the armed services under state
 31 jurisdiction.

1 SEC. 28. NEW SECTION. If any provision of this Act jeopardizes
 2 the receipt by the state or any of its political subdivisions of any
 3 federal grant-in-aid funds or other federal allotment of money, the
 4 provisions of this Act shall, insofar as the fund is jeopardized, be
 5 deemed to be inoperative.

1 SEC. 29. This Act shall become effective on July 1, 1974, but the
 2 provisions of this Act relative to the duty to bargain shall not become
 3 effective until July 1, 1975. However, public employees of the state,
 4 its boards, commissions, departments, and agencies may not bargain
 5 collectively until June 1, 1976.

Approved April 23, 1974