

SENATE FILE 273

By GRIFFIN

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*Sumner & Sons Bldg 2/27*

Senate File 273  
Robinson, Chairman  
Ramsey  
Gallagher

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for collective negotiations between public  
2 employers and public employees.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. PUBLIC POLICY. The general as-  
2 sembly declares that it is the public policy of this state  
3 that:

4 1. The people of this state have a fundamental interest  
5 in the development of harmonious and cooperative relation-  
6 ships between government and its employees.

7 2. Public employers recognize the right of public em-  
8 ployees to organize and to accept the principle of full com-  
9 munication between public employers and public employee or-  
10 ganizations to alleviate various forms of strike and unrest.

11 3. The state has an obligation to protect the public by  
12 attempting to assure the orderly and uninterrupted operations  
13 and functions of government.

14 4. The status of public employees is not completely com-  
15 parable to that of private employees because of inherent dif-  
16 ferences in the employment relationship arising out of the  
17 unique fact that the public employer is established by and  
18 run for the benefit of all the people and its authority de-  
19 rives not from contract nor the profit motive inherent in  
20 the principle of free private enterprise, but arises from  
21 the Constitution and statutes.

22 It is the purpose of this Act to obligate public employers,  
23 public employees, and their representatives to enter into  
24 discussions with affirmative willingness to resolve grievances  
25 and disputes relating to wages, salaries, and other economic  
26 benefits. It is also the purpose of this Act to promote the  
27 improvement of employer-employee relations within state  
28 agencies and political subdivisions of the state by providing  
29 a uniform basis for recognizing the right of public employees  
30 to join organizations of their own choice, or to refrain from  
31 joining, and be represented by such organizations in their  
32 employment relations and dealings with public agencies.

33 Sec. 2. NEW SECTION. DEFINITIONS. When used in this  
34 Act, unless the context otherwise requires:

35 1. "Public employer" means the state of Iowa, its politi-

1 cal subdivisions, including school districts and other special  
2 purpose districts; and any department, board, commission,  
3 or other agency thereof and their representatives.

4 2. "Public employee" means any person employed by a pub-  
5 lic employer except persons excluded under the provisions  
6 of section three (3) of this Act.

7 3. "Employee organization" means an organization of any  
8 kind which includes public employees and which has as one  
9 of its purposes the representation of public employees in  
10 their employment relations with public employers.

11 4. "Board" means the public employment relations board.

12 5. "Governing body" means the legislative body of the  
13 public employer or the body possessing legislative powers.

14 6. "Supervisory employee" means any public employee hav-  
15 ing authority, in the interest of the public employer, to  
16 hire, transfer, suspend, lay off, recall, promote, discharge,  
17 assign, reward, or discipline other public employees, or re-  
18 sponsibly to direct them, or to adjust their grievances, or  
19 effectively to recommend such action, if in connection with  
20 the foregoing the exercise of such authority is not of a  
21 merely routine or clerical nature, but requires the use of  
22 independent judgment.

23 7. "Meet and confer in good faith" means the process  
24 whereby the chief executive of a public employer, or his  
25 representatives and representatives of employee organiza-  
26 tions have the mutual obligation personally to meet and con-  
27 fer in order to exchange freely information, opinions, and  
28 proposals, to endeavor to reach agreement on matters within  
29 the scope of discussions, and to seek by every possible means  
30 to implement agreements reached.

31 8. "Memorandum of agreement" means a written memorandum  
32 of understanding arrived at by the representatives of the  
33 public employer and an employee organization, which may be  
34 presented to the governing body for appropriate action.

35 9. "Mediation" means effort by an impartial third party

1 to assist in reconciling a dispute regarding wages, salaries,  
2 and other economic benefits between the public employer and  
3 the employee organization through interpretation, suggestion,  
4 and advice.

5 10. "Fact-finding" means investigation of such a dispute  
6 by an individual, panel, or board with the fact-finder sub-  
7 mitting a report to the parties describing the issues involved.  
8 The report may contain recommendations for settlement and  
9 may be made public.

10 11. "Advisory arbitration" means interpretation of the  
11 terms of an existing or a new memorandum of agreement or in-  
12 vestigations of disputes by an impartial third party whose  
13 decision is not binding upon the parties.

14 12. "Voluntary arbitration" means a procedure wherein  
15 both parties jointly agree to submit their dispute over the  
16 interpretation of the terms of an existing agreement or over  
17 a new memorandum of agreement to an impartial third party  
18 whose decision may be final and binding or advisory and non-  
19 binding, depending on the nature of the initial agreement.

20 13. "Strike" means the failure by concerted action with  
21 others to report for duty, the willful absence from one's  
22 position, the stoppage of work, or the abstinence in whole  
23 or in part from the full, faithful, and proper performance  
24 of the duties of employment, or in any matter interfering  
25 with the operation of any public employer.

26 14. "Confidential employee" means one whose unrestricted  
27 access to confidential personnel files or information con-  
28 cerning the administrative operations of a public employer  
29 or whose functional responsibilities or knowledge in connec-  
30 tion with the issues involved in the collective negotiations  
31 process, would make his membership in the organization in-  
32 compatible with his official duties.

33 Sec. 3. NEW SECTION. EXCLUSIONS. The following public  
34 employees shall be excluded from the provisions of this Act:

35 1. Officials elected by popular vote, and persons ap-

1 pointed to fill vacancies in elective offices, their im-  
2 mediate secretaries, two deputies, and the immediate secretary  
3 of each of the two deputies.

4 2. Members and the chief administrative officers of boards  
5 and commissions and their immediate secretaries.

6 3. The personal staff of the governor, all persons ap-  
7 pointed by the governor and their immediate secretaries.

8 4. Patients and inmates employed, sentenced, or committed  
9 to any state or local institution.

10 5. Persons employed permanently by the board.

11 6. Persons employed by the legislative branch of govern-  
12 ment, office of the attorney general, judges of the supreme  
13 court, district judges, district associate judges, and judi-  
14 cial magistrates, and the employees of the judges and courts.

15 7. Officers and enlisted men of the armed services un-  
16 der state jurisdiction.

17 8. All persons whose salaries are set by the general  
18 assembly.

19 9. All persons holding a status of student in any state  
20 or local institution.

21 10. Persons who regularly work for a public employer less  
22 than twenty hours per week or five months per year.

23 11. All persons in a confidential relationship with their  
24 public employer.

25 Sec. 4. NEW SECTION. PUBLIC EMPLOYMENT RELATIONS BOARD.

26 1. There is established an autonomous board to be known  
27 as the public employment relations board. The governor shall  
28 assign the board to an existing agency, except an agency of  
29 which he has the unqualified right to discharge the head,  
30 for the purpose of administration. The board shall consist  
31 of three members appointed by the governor with the approval  
32 of two-thirds of the senate. Not more than two members of  
33 the board shall be of the same political affiliation.

34 Each member shall be appointed for a term of six years,  
35 except that of the members first appointed, one member shall

1 be appointed for a term of two years commencing July 1, 1973  
2 and ending June 30, 1975, one member shall be appointed for  
3 a term of four years commencing July 1, 1973 and ending June  
4 30, 1977, and one member shall be appointed for a term of  
5 six years commencing July 1, 1973 and ending June 30, 1979.  
6 The member first appointed for a term of six years shall serve  
7 as chairman and each of his successors shall also serve as  
8 chairman.

9 A member appointed to fill a vacancy shall be appointed  
10 for the unexpired term of the member he succeeds.

11 2. The members of the board shall be selected on the basis  
12 of their knowledge, ability, and experience in the field of  
13 labor-management relations.

14 The chairman shall devote full time to the duties of his  
15 office and shall receive an annual salary equal to the salary  
16 of a district court judge. He shall not be selected on the  
17 basis of his political affiliation and shall not engage in  
18 any political activity while he holds this position. The  
19 remaining two members shall devote such time as is necessary  
20 to carry out the duties and responsibilities of the office.  
21 Members of the board, except the chairman, shall receive a  
22 per diem of one hundred dollars and necessary travel and ex-  
23 penses incurred in the performance of their official duties.

24 3. The board may appoint an executive director and em-  
25 ploy such other persons as are necessary for the performance  
26 of its functions. Personnel of the board shall be employed  
27 pursuant to the provisions of chapter nineteen A (19A) of  
28 the Code.

29 Sec. 5. NEW SECTION. GENERAL POWERS AND DUTIES OF THE  
30 BOARD. The board shall have the power and duty to:

31 1. Make studies and analyses of, and act as a clearing-  
32 house of information relating to conditions of employment  
33 of public employees throughout the state.

34 2. Provide technical assistance and training programs  
35 to assist public employers in their employment violations

1 with employee organizations.

2 3. Request from any public employer such assistance, ser-  
3 vices, and data as will enable the board to carry out its  
4 functions and powers.

5 4. Establish procedures for the prevention of improper  
6 public employer and employee organization practices as pro-  
7 vided in section fifteen (15) of this Act, provided that in  
8 the case of a claimed violation of subsection two (2), para-  
9 graph c, or subsection three (3), paragraph a of section  
10 thirteen (13) of this Act, procedures shall provide only for  
11 an entering of an order directing the public employer or em-  
12 ployee organization to meet and confer in good faith. Pend-  
13 ing proceedings under this subsection shall not be used to  
14 delay or interfere with determination of representation status  
15 pursuant to section nine (9) of this Act or with meeting and  
16 conferring. The board shall exercise exclusive nondelegable  
17 jurisdiction of the power granted to it by this subsection.

18 5. Establish, after consulting with representatives of  
19 employee organizations, public employers and qualified per-  
20 sons representative of the public, to be available to serve  
21 as mediators, members of fact-finding boards, or arbitrators.

22 6. Hold such hearings as it deems necessary, to carry  
23 out its functions and powers.

24 7. For the purpose of such hearings, administer oaths  
25 and affirmations, examine witnesses and documents, take tes-  
26 timony and receive evidence, compel attendance of witnesses  
27 and the production of documents by the issuance of subpoenas,  
28 and delegate such powers to any member of the board or any  
29 person appointed by the board for the performance of its  
30 functions. Such subpoenas shall be regulated and enforced  
31 under the Iowa rules of civil procedure.

32 8. Make, amend, and rescind, such rules and regulations,  
33 including but not limited to those governing its internal  
34 organization and operations, and exercise such other powers,  
35 as may be appropriate to effectuate the purposes and provi-

1 sions of this Act pursuant to chapter seventeen A (17A) of  
2 the Code.

3     Sec. 6. NEW SECTION. PUBLIC EMPLOYEE RIGHTS. Public  
4 employees may form, join, and participate in the activities  
5 of employee organizations of their own choosing for the pur-  
6 pose of meeting and conferring with public employers or their  
7 representatives with respect to grievances and wages, salaries,  
8 and other economic benefits. Public employees may also refuse  
9 or fail to join or participate in the activities of employee  
10 organizations. A public employee who refuses or fails to  
11 join or participate in the activities of employee organizations  
12 shall have the right to petition the public employer and the  
13 board to resolve grievances and disputes relating to wages,  
14 salaries, and other economic benefits.

15     Sec. 7. NEW SECTION. SUPERVISORY EMPLOYEES. Supervisory  
16 employees may form, join, and participate in the activities  
17 of an employee organization, provided the organization does  
18 not include nonsupervisory employees. A public employer shall  
19 not extend formal recognition to a supervisory organization  
20 for the purpose of meeting and conferring with respect to  
21 grievances and conditions of employment, but may consult or  
22 communicate with such an organization on appropriate matters.  
23 The public employer shall determine whether an individual  
24 is to be considered a supervisory or confidential employee  
25 under the provisions of this Act, subject to appeal to the  
26 board.

27     Sec. 8. NEW SECTION. PUBLIC EMPLOYER RIGHTS. Nothing  
28 in this Act is intended to circumscribe or modify the exist-  
29 ing right of a public employer to:

- 30     1. Direct the work of its employees.
- 31     2. Hire, promote, assign, transfer, and retain employees  
32 in positions created by the public employer.
- 33     3. Demote, suspend, or discharge employees for proper  
34 cause.
- 35     4. Maintain the efficiency of governmental operations.

1 5. Relieve employees from duties because of lack of work  
2 or for other legitimate reasons.

3 6. Take actions as may be necessary to carry out the mis-  
4 sion of the public employer in emergencies.

5 7. Determine the methods, means, and personnel by which  
6 operations are to be carried on.

7 Sec. 9. NEW SECTION. RECOGNITION OF EMPLOYEE ORGANIZA-  
8 TIONS.

9 1. Public employers shall recognize employee organiza-  
10 tions for the purpose of representing their members in deal-  
11 ings with such employers. Employee organizations may es-  
12 tablish reasonable provisions for an individual's admission  
13 to or dismissal from membership.

14 2. Where a public employer has recognized an employee  
15 organization or where an organization has been certified by  
16 the board as representing a majority of the public employees  
17 in an appropriate unit, or recognized formally, pursuant to  
18 the provisions of this Act, the public employer shall meet  
19 and confer in good faith with the employee organization in  
20 the determination of the economic terms and conditions of  
21 employment of their public employees and the settlement of  
22 grievances, and may enter into a memorandum of agreement with  
23 the employee organization.

24 3. When a representational question relating to the desig-  
25 nation of an appropriate unit is raised by a public employer,  
26 employee organization, or public employee, the board shall,  
27 at the request of any of the parties, investigate such ques-  
28 tion and, after a hearing, rule on the definition of the ap-  
29 propriate unit. In defining the unit, the board shall con-  
30 sider, along with other relevant factors, the principles of  
31 efficient administration of government, the existence of a  
32 community of interest among public employees, the history  
33 and extent of employee organization, geographical location,  
34 and the recommendations of the parties involved.

35 4. Following investigation of a question concerning whether

1 an employee organization represents a majority of the public  
2 employees in an appropriate unit, the board, at the request  
3 of any of the parties, shall examine such question and certify  
4 to the parties in writing the name of the representative that  
5 has been designated. The filing of a petition for the inves-  
6 tigation or certification of a representative by any of the  
7 parties shall constitute a question within the meaning of  
8 this section. In any such investigation, the board may pro-  
9 vide for a hearing, determine voting eligibility, and take  
10 a secret ballot of public employees in the appropriate unit  
11 involved to ascertain the employee representative for the  
12 purpose of formal recognition. If the board has certified  
13 a formally recognized employee representative in an appro-  
14 priate unit, it shall not be required to consider the matter  
15 again for a period of one year. The board may promulgate  
16 rules and regulations as may be appropriate to carry out the  
17 provisions of subsections one (1) and two (2) of this section.

18 Sec. 10. NEW SECTION. RIGHTS ACCOMPANYING FORMAL RECOG-  
19 NITION.

20 1. A public employer shall extend to a certified or recog-  
21 nized employee organization, the right to represent all the  
22 public employees, regardless of membership in the employee  
23 organization, in meet and confer proceedings, the settlement  
24 of grievances, and the right to unchallenged representation  
25 status, for one year following the date of certification or  
26 recognition.

27 2. A public employer may extend to the employee organi-  
28 zation the right to membership dues deduction, upon presen-  
29 tation of dues deduction authorization cards signed by pub-  
30 lic employees.

31 3. Representatives of employee organizations may be given  
32 time off without loss of compensation during normal working  
33 hours to meet and confer with public employers on matters  
34 falling within the scope of discussions.

35 Sec. 11. NEW SECTION. PROCEDURES FOR DETERMINING THE

## 1 RECOGNITION STATUS OF LOCAL EMPLOYEE ORGANIZATIONS.

2 1. Every public employer, other than the state acting  
3 through its governing body, may establish procedures, not  
4 inconsistent with the provisions of sections nine (9) and  
5 ten (10) of this Act and after consultation with employee  
6 organizations and employer representatives, to resolve dis-  
7 putes concerning the recognition status of employee organi-  
8 zations composed of public employees.

9 2. In the absence of such procedures, these disputes shall  
10 be submitted to the board in accordance with section nine  
11 (9) of this Act.

12 Sec. 12. NEW SECTION. SCOPE OF A MEMORANDUM OF AGREE-  
13 MENT. The memorandum of agreement may extend to all matters  
14 with respect to wages, salaries, and other economic benefits.  
15 However, the memorandum of agreement shall not include pro-  
16 posals relating to:

17 1. Any subject preempted by federal or state law or mu-  
18 nicipal ordinance.

19 2. Public employee rights defined in section six (6) of  
20 this Act.

21 3. Public employer rights defined in section eight (8)  
22 of this Act.

23 4. The authority and power of the merit employment com-  
24 mission or any civil service commission created by statute  
25 or ordinance to establish and administer standards dealing  
26 with the impartial recruitment of candidates for public em-  
27 ployment, to conduct and grade merit examinations, and to  
28 rate candidates in the order of their relative excellence  
29 from which appointments or promotions may be made to posi-  
30 tions in the competitive division of the classified service  
31 of the public employer served by the merit employment com-  
32 mission or civil service commission.

33 A memorandum of agreement may contain a grievance pro-  
34 cedure including advisory arbitration of unresolved griev-  
35 ances and disputed interpretations of such agreements.

1       Sec. 13. NEW SECTION. IMPLEMENTATION OF A MEMORANDUM  
2 OF AGREEMENT. If agreement is reached by the public employer  
3 and the employee organization, they shall prepare a memoran-  
4 dum of understanding and, within fourteen days, present it  
5 to the governing body for determination. After receiving  
6 a report from the chief financial officer of the public em-  
7 ployer as to the fiscal effect of the memorandum upon the  
8 public employer, the governing body shall consider the mem-  
9 orandum and take appropriate action. If an agreement is  
10 reached with an employee organization, the governing body  
11 or the public employer shall implement the agreement. If  
12 the governing body rejects a proposed memorandum, the matter  
13 shall be returned to the parties for further deliberation.  
14 An implemented memorandum of agreement shall remain in ef-  
15 fect not longer than two years.

16       Sec. 14. NEW SECTION. RESOLUTION OF DISPUTES ARISING  
17 IN THE COURSE OF DISCUSSIONS.

18       1. Public employers may include in a memorandum of agree-  
19 ment with employee organizations a provision establishing  
20 procedures including mediation, fact-finding, voluntary ar-  
21 bitration, and advisory arbitration, to be involved in the  
22 event of disputes which reach an impasse in the course of  
23 meet and confer proceedings. For purposes of this section,  
24 an impasse shall exist if the parties fail to reach agreement  
25 at least one hundred twenty days prior to the budget submission  
26 date of the public employer. If no impasse procedures are  
27 contained in agreements, resulting in an impasse, either party  
28 may request the assistance of the board or the board may  
29 render such assistance on its own motion.

30       2. On the request of either party, or upon the board's  
31 own motion, if it determines an impasse exists in meet and  
32 confer proceedings between a public employer and an employee  
33 organization, the board shall aid the parties in effecting  
34 a voluntary resolution of the dispute, and appoint a mediator  
35 from a list of qualified persons maintained by the board.

1 3. If the parties fail to resolve the impasse through  
2 mediation ninety days prior to the budget submission date,  
3 the board shall appoint a fact-finding board of not more than  
4 three members from a list of qualified persons maintained  
5 by the board. The fact-finding board shall conduct hearings,  
6 administer oaths, and may request the board to issue subpoenas.

7 The fact-finding board shall make written findings of facts  
8 and recommendations for resolution of the dispute and, not  
9 later than thirty days prior to the budget submission date,  
10 shall serve such findings on the public employer and the em-  
11 ployee organization. If the dispute continues ten days after  
12 the report is submitted to the parties, the report may be  
13 made public by the board.

14 4. If the parties have not resolved the impasse within  
15 forty days from the date of appointment of the fact-finding  
16 board, the public employer shall submit to the governing body  
17 a copy of the findings of fact and recommendations of the  
18 fact-finding board, together with its recommendations for  
19 settling the dispute. The employee organization may submit  
20 to the governing body its recommendations for settling the  
21 dispute. The governing body shall conduct a hearing at which  
22 the parties shall be required to explain their positions on  
23 the findings of the fact-finding board and the governing body  
24 shall take such action as it deems to be in the public in-  
25 terest, including the interest of the public employees in-  
26 volved.

27 5. Meet and confer proceedings, mediation, and the de-  
28 liberative process of fact-finding, and arbitration shall  
29 be exempt from the provisions of chapter twenty-eight A (28A)  
30 of the Code.

31 6. The costs for mediation services provided by the board  
32 shall be paid by the board. All other costs, including that  
33 of fact-finding services, shall be shared equally by the par-  
34 ties to a dispute.

35 Sec. 15. NEW SECTION. PROHIBITED PRACTICES--EVIDENCE

1 OF BAD FAITH.

2 1. Committing a prohibited practice shall constitute  
3 evidence of bad faith in meet and confer proceedings.

4 2. It is a prohibited practice for a public employer to  
5 willfully:

6 a. Interfere, restrain, or coerce public employees in  
7 the exercise of rights granted in section six (6) of this  
8 Act.

9 b. Dominate, interfere, or assist in the formation, ex-  
10 istence, or administration of any employee organizations.

11 c. Encourage or discourage membership in any employee  
12 organization, by discrimination in hiring, tenure, or other  
13 terms or conditions of employment.

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

19 e. Refuse to meet and confer with representatives of em-  
20 ployee organizations as required in section nine (9) of this  
21 Act.

22 f. Deny the rights accompanying certification or formal  
23 recognition granted in section ten (10) of this Act.

24 g. Blacklist any employee organization or its members  
25 for the purpose of denying them employment because of their  
26 organizational activities.

27 h. Avoid mediation and fact-finding procedures as pro-  
28 vided in section fourteen (14) of this Act.

29 3. It shall be a prohibited practice for any public em-  
30 ployee or employee organization to willfully:

31 a. Interfere with, restrain, or coerce public employees  
32 in the exercise of rights granted in section six (6) of this  
33 Act.

34 b. Interfere with, restrain, or coerce a public employer  
35 with respect to rights protected in section eight (8) of this

1 Act with respect to selecting a representative for the pur-  
2 poses of meeting and conferring.

3 c. Refuse to meet and confer with a public employer as  
4 required in section nine (9) of this Act.

5 d. Avoid mediation and fact-finding procedures provided  
6 in section fourteen (14) of this Act.

7 e. Engage in a strike.

8 4. In applying this section, fundamental distinctions  
9 between private and public employment shall be recognized,  
10 and federal or state law applicable to employer-employee  
11 relations in private employment, shall not be regarded as  
12 binding or controlling precedent.

13 Sec. 16. NEW SECTION. VIOLATIONS OF PROHIBITED PRAC-  
14 TICES.

15 1. Any controversy concerning prohibited practices may  
16 be submitted to the board. Proceedings against the party  
17 alleged to have committed a prohibited practice shall be com-  
18 menced by service of written notice by the board, together  
19 with a copy of the charges. The accused party shall have  
20 seven days within which to serve a written answer to such  
21 charges. The parties shall be permitted to be represented  
22 by counsel and to summon witnesses in their behalf at the  
23 board hearing. Compliance with the technical rules of evi-  
24 dence shall not be required. The board may exercise its  
25 powers to adopt any rules it deems necessary to carry on this  
26 function.

27 2. The board shall state its findings of facts upon all  
28 the testimony and shall dismiss the complaint or determine  
29 that a prohibited practice has been or is being committed.  
30 If the board finds that the party accused has committed or  
31 is committing a prohibited practice, the board shall peti-  
32 tion the district court to punish such violation, and shall  
33 file with the district court the record in the proceedings.  
34 Any person aggrieved by a final order of the board may ob-  
35 tain a review of the order in the district court by filing

1 a complaint requesting that the order of the board be modi-  
2 fied or set aside. The aggrieved party shall file a copy  
3 of the complaint with the board and a copy of the record in  
4 the proceedings, certified by the board, shall be filed with  
5 the district court. Findings of the board as to the facts  
6 shall be conclusive unless the findings of fact are not sup-  
7 ported by substantial evidence.

8 Sec. 17. NEW SECTION. INTERNAL CONDUCT OF PUBLIC EM-  
9 PLOYEE ORGANIZATIONS.

10 1. Every employee organization which has or seeks recog-  
11 nition as a representative of public employees of this state  
12 and of its political subdivisions shall file with the board  
13 a registration report, signed by its president or other ap-  
14 propriate officer, within ninety days after the effective  
15 date of this Act. Such report shall be in a form prescribed  
16 by the board and shall be accompanied by two copies of the  
17 employee organization's constitution and bylaws. A filing  
18 by a national or international employee organization of its  
19 constitution and bylaws shall be accepted in lieu of a fil-  
20 ing of such documents by each subordinate organization. All  
21 changes or amendments to such constitutions and bylaws shall  
22 be promptly reported to the board.

23 1. Every employee organization shall file with the board  
24 an annual report. The report shall be in a form prescribed  
25 by the board, and shall provide the following information:

26 a. The name and address of the organization, any parent  
27 organization with which it is affiliated, its principal of-  
28 ficers, and its representatives.

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

31 c. A general description of the public employees or groups  
32 of employees the organization represents or seeks to represent.

33 d. The amount of the initiation fee and monthly dues mem-  
34 bers shall pay.

35 e. A pledge, in a form prescribed by the board, that the

1 organization will conform to the laws of the state and that  
2 it will accept members without regard to age, race, sex,  
3 religion, or national origin.

4 f. A financial report and audit.

5 3. The constitution or bylaws of every employee organiza-  
6 tion shall provide that:

7 a. Accurate accounts of all income and expenses shall  
8 be kept, an annual financial report and audit shall be pre-  
9 pared, such accounts shall be open for inspection by any mem-  
10 ber of the organization, and loans to officers and agents  
11 shall be made only on terms and conditions available to all  
12 members.

13 b. Business or financial interests of its officers and  
14 agents, their spouses, minor children, and parents, that con-  
15 flict with the fiduciary obligation of such persons to the  
16 organization shall be prohibited.

17 c. Every officer or employee of an employee organization  
18 who handles funds or other property of the organization, or  
19 trust in which an organization is interested, or a subsidiary  
20 organization, shall be bonded. The amount and form of the  
21 bond shall be determined by the board.

22 4. The governing rules of every employee organization  
23 shall provide for:

24 a. Periodic elections by secret ballot subject to recog-  
25 nized safeguards concerning the equal right of all members  
26 to nominate, seek office, and vote in such elections.

27 b. The right of individual members to participate in the  
28 affairs of the organization.

29 c. Fair and equal treatment of its members.

30 d. The right of any member to sue the organization.

31 e. Fair and equitable procedures in disciplinary actions.

32 5. The board shall prescribe such rules and regulations  
33 as may be necessary to govern the establishment and report-  
34 ing of trusteeships over employee organizations. Establish-  
35 ment of such trusteeships shall be permitted only if the

1 constitution or bylaws of the organization set forth reason-  
2 able procedures.

3 6. An employee organization that has not registered or  
4 filed an annual report, or that has failed to comply with  
5 other provisions of this Act, shall not be recognized for  
6 the purpose of meeting and conferring with any public em-  
7 ployer regarding the terms and conditions of employment of  
8 its members. Recognized employee organizations failing to  
9 comply with the provisions of this Act may have its recog-  
10 nition revoked by the board. All proceedings under this  
11 subsection shall be conducted pursuant to rules adopted by  
12 the board. Complaints of violation of this Act shall be filed  
13 with the board.

14 Sec. 18. NEW SECTION. LEGAL ACTIONS. Any employee or-  
15 ganization and any public employer may sue or be sued as an  
16 entity. Service upon any officer of an employee organization  
17 shall constitute service upon the organization. Service upon  
18 the public employer shall be in accordance with law or the  
19 rules of civil procedure. Any judgment obtained against an  
20 employee organization or public employer shall be enforce-  
21 able as to the assets of the employee organization or public  
22 employer only, and the individual assets of any public em-  
23 ployee or public official shall be exempt. Appeal from the  
24 judgment of the board shall be to the supreme court, or a  
25 panel of judges which the chief justice may appoint.

26 Sec. 19. NEW SECTION. It shall be unlawful for any em-  
27 ployee organization that has been recognized or certified  
28 as an exclusive bargaining agent in conformity with this Act  
29 to support, endorse, or oppose, directly or indirectly, any  
30 political candidate, or to expend, directly or indirectly,  
31 any of its funds to promote or oppose any political candi-  
32 dacy, or to provide goods, services, or any other thing of  
33 value to any political party or political organization.

34 Notwithstanding any provision in this Act to the contrary,  
35 no employee organization that has been recognized or certi-

1 fied as an exclusive bargaining agent in conformity with this  
2 Act which is in violation of this section shall be entitled  
3 to recognition or certification, or to the continuance of  
4 any prior recognition or certification as a representative  
5 of any public employees and there shall be no duty on the  
6 part of any public employer to bargain with any such employee  
7 organization which is in violation of this section.

8 Any violation of this section shall be deemed to be a mis-  
9 demeanor and any officer, director, trustee or other agent  
10 of any employee organization that has been recognized or cer-  
11 tified as an exclusive bargaining agent in conformity with  
12 this Act who aids, abets, causes or knowingly permits a vio-  
13 lation of this section shall likewise be guilty of a misde-  
14 meanor and shall be punished accordingly.

15 Sec. 20. Chapter nineteen A (19A), Code 1973, is amended  
16 by adding the following new section:

17 NEW SECTION. A pay plan established pursuant to this Act  
18 shall be altered to the extent necessary and possible in order  
19 to reflect an agreement resulting from meeting and conferring  
20 pursuant to this Act if the agreement is approved by the gen-  
21 eral assembly.

22 Sec. 21. EFFECTIVE DATES. The provisions of this Act  
23 relative to the duty to bargain shall not be effective un-  
24 til July 1, 1973 for state employees and shall not be effec-  
25 tive until January 1, 1974 for all other public employees.  
26 If the governor determines that the administrative machinery  
27 is not available to effectively allow collective bargaining  
28 by the public employer or public employees, he may by execu-  
29 tive order delay application of the provisions of this Act  
30 as they may affect state employees for an additional period  
31 of time, but in no event later than July 1, 1974.

32 EXPLANATION

33 The bill provides for a meet and confer law for the pur-  
34 pose of resolving disputes between public employers and em-  
35 ployee organizations representing public employees.

1 Section 1 states the public policy of the General Assembly.

2 Section 2 defines the terms used throughout the bill.

3 Section 3 lists the groups of public employees excluded  
4 from the provisions of the bill.

5 Section 4 creates a Public Employment Relations Board com-  
6 posed of three members appointed by the Governor with the  
7 approval of two-thirds of the Senate. Members are appointed  
8 for a term of six years, except that the initial appointees  
9 shall serve terms of two, four, and six years, respectively.  
10 The chairman of the board is the only full-time member and  
11 receives a salary comparable to that of a district court  
12 judge. The remaining two members serve as needed receiving  
13 a one hundred dollar per diem and expenses.

14 Section 5 outlines the duties of the board which includes  
15 administrative functions and the authority to resolve dis-  
16 putes.

17 Section 6 authorizes public employees to form, join, and  
18 participate in, or to refrain from joining or participating  
19 in, employee organizations for the purpose of meeting and  
20 conferring with public employers. A public employee who is  
21 not a member of an employee organization also is given the  
22 right to petition a public employer to resolve grievances  
23 and disputes.

24 Section 7 permits supervisory employees to join and par-  
25 ticipate in employee organizations which do not include non-  
26 supervisory employees. The section prohibits the public em-  
27 ployer from extending formal recognition to employee organi-  
28 zations of supervisory personnel but permits informal con-  
29 sultation at the discretion of the public employer.

30 Section 8 guarantees certain traditional public employer  
31 rights under the bill.

32 Section 9 provides procedures for the formal recognition  
33 of employee organizations by the public employer. It also  
34 provides that the public employment relations board may de-  
35 termine the appropriate bargaining unit.

1 Section 10 outlines the rights accompanying recognition  
2 of an employee organization, including authority for the pub-  
3 lic employer to make dues checkoffs and giving representatives  
4 of the employee organization time off during normal working  
5 hours without loss of compensation to meet and confer with  
6 the public employer.

7 Section 11 contains alternative procedures for determin-  
8 ing the recognition of local employee organizations allowing  
9 public employers, other than the state, to determine their  
10 own procedures for such determination.

11 Section 12 outlines the matters which may be included in  
12 a memorandum of agreement.

13 Section 13 outlines the procedures for implementing a  
14 memorandum of agreement.

15 Section 14 provides the machinery for resolving disputes  
16 arising in the course of discussions, including mediation  
17 and fact-finding. The impasse procedures established by the  
18 bill shall be used only in the event the parties fail to agree  
19 upon procedures of their own. The public employer and em-  
20 ployee organization may agree upon mediation, fact-finding,  
21 advisory arbitration, and voluntary arbitration. Voluntary  
22 arbitration includes final-offer arbitration by definition.  
23 The section also exempts meet and confer and dispute settle-  
24 ment procedures from the open meeting law.

25 Section 15 lists prohibits practices for public employers,  
26 public employees, and employee organizations. The section  
27 states that the application of the section shall recognize  
28 the distinction between public employment and private employ-  
29 ment and that no law applicable to private employment shall  
30 be binding or controlling in public employment relations.  
31 The section also prohibits strikes.

32 Section 16 outlines procedures for handling violations.

33 Section 17 provides for the regulation of the internal  
34 organization of an employee organization, including safe-  
35 guards over the conduct or organizational elections, regu-

1 lation of trusteeships and fiduciary responsibilities or  
2 organizational officers, and maintenance of accounting and  
3 fiscal controls.

4 Section 18 provides that public employers and employee  
5 organizations may sue or be sued.

6 Section 19 prohibits an employee organization from en-  
7 gaging in political activities.

8 Section 20 provides that the merit employment commission  
9 shall adjust pay plans to reflect agreements of public em-  
10 ployers and employee organizations which have been approved  
11 by the governing body.

12 Section 21 provides for the effective dates of the bill.

13

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\_\_\_\_\_ FISCAL NOTE \_\_\_\_\_

Date prepared March 1, 1973

Requested by Senator Griffin.

Prepared in regard to S.F. 273 - An Act providing for collective negotiations between public employers and public employees. Following is the fiscal effect in dollars of the legislative proposal as required by Senate Rule 31.

Senate File 273 provides for collective negotiations between public employers and public employees. The estimated cost is only for the public employment relations board. No attempt was made to estimate the cost to governmental agencies for employees' lost time.

3 commissioners:

Chairman	\$ 21,500
2 members - \$100 per diem (estimate 50 days)	10,000
Travel & expenses	2,500
Executive director	18,000
Office personnel (2)	17,500
Fringe benefits	4,500
Office supplies, telephone & equipment	<u>5,000</u>
Estimated yearly cost	<u>\$ 79,000</u>

Filed  
March 1, 1973

GERRY D. RANKIN  
Legislative Fiscal Director