

4-5-89 referred to house Labor & Ind. Comm.
Do Pass 1/17/90 (p.104)

FILED MAR 09 1989
BU & Labor Rel.
Do pass 3-9-89 (p.701)

SENATE FILE **385**
BY COMMITTEE ON BUSINESS AND
AND LABOR RELATIONS

(SUCCESSOR TO SSB 213)

Passed Senate, Date 3-28-89 (p.104) Passed House, Date 1-25-90 (p.199)
Vote: Ayes 33 Nays 16 Vote: Ayes 55 Nays 43

~~Approved~~ Withdrawn 2-8-90 (p.445)
Motion to Reconsider - Withdrawn 4-4-89 (p.1170)
3-28-89 (p.1047) A BILL FOR

1 An Act relating to the scope of negotiations for purposes of
2 public employment collective bargaining.

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

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SF 385

1 Section 1. Section 20.9, unnumbered paragraph 1, Code
2 1989, is amended to read as follows:

3343
H-5033

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

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23 EXPLANATION

24 This bill expands the scope of negotiations for purposes of
25 public employment collective bargaining to include matters of
26 discipline and dismissal.

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SENATE FILE 385

S-3343

1 Amend Senate File 385 as follows:

2 1. Page 1, line 12, by inserting after the word
3 "dismissal" the following: "procedures".

4 2. Page 1, line 17, by inserting after the word
5 "parties." the following: "For the purposes of this
6 section, the term "procedure" does not include
7 criteria or matters of substance."

8 3. Page 1, by inserting after line 22 the fol-
9 lowing:

10 "Sec. _____. Section 256.10, Code 1989, is amended
11 to read as follows:

12 256.10 EMPLOYMENT OF PROFESSIONAL STAFF.

13 The salary of the director shall be fixed by the
14 governor within a range established by the general
15 assembly. Appointments to the professional staff of
16 the department shall be without reference to political
17 party affiliation, religious affiliation, sex, or
18 marital status, but shall be based solely upon
19 fitness, ability, and proper qualifications for the
20 particular position. The professional staff shall
21 serve at the discretion of the director. A member of
22 the professional staff shall not be dismissed for
23 cause without at least ninety days' notice, except in
24 cases of conviction of a felony or cases involving
25 moral turpitude. In cases of procedure for dismissal,
26 the accused has the same right to notice and hearing
27 as teachers administrators in the public school
28 systems as provided in section ~~279-27~~ 279.25 to the
29 extent that it is applicable.

30 Sec. _____. Section 261.45, subsection 1, Code 1989,
31 is amended to read as follows:

32 1. Is a teacher employed on a full-time basis
33 under ~~sections-279-13-through-279-19~~ section 279.12 in
34 a school district in this state, is a teacher in an
35 approved nonpublic school in this state, or is a
36 certified teacher at the Iowa braille and sight-saving
37 school or the Iowa school for the deaf.

38 Sec. _____. Section 262.9, subsection 2, Code 1989,
39 is amended to read as follows:

40 2. Elect a president of each of the institutions
41 of higher learning; a superintendent of each of the
42 other institutions; a treasurer and a secretarial
43 officer for each institution annually; professors,
44 instructors, officers, and employees; and fix their
45 compensation. Sections ~~279.12 through-279-19~~ and
46 ~~section-279-27~~ 279.14 apply to employees of the Iowa
47 braille and sight-saving school and the state school
48 for the deaf, who are certificated pursuant to chapter
49 260. In following those sections in chapter 279, the
50 references to boards of directors of school districts

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Page 2

1 shall be interpreted to apply to the board of regents.
 2 Sec. _____. Section 275.33, subsection 1, Code 1989,
 3 is amended to read as follows:
 4 1. The terms of employment of superintendents, and
 5 principals, ~~and teachers,~~ for the school year
 6 following the effective date of the formation of the
 7 new district shall not be affected by the formation of
 8 the new district, except in accordance with the
 9 ~~provisions of sections 279.15 to 279.18 and section~~
 10 279.24 and the authority and responsibility to offer
 11 new contracts or to continue, modify, or terminate
 12 existing contracts pursuant to sections 279.12,
 13 ~~279.13, 279.15 to~~ 279.20, 279.21, 279.23, and 279.24
 14 for the school year beginning with the effective date
 15 of the reorganization shall be transferred from the
 16 boards of the existing districts to the board of the
 17 new district on the third Tuesday of January prior to
 18 the school year the reorganization is effective.
 19 Sec. _____. Section 279.19, unnumbered paragraph 2,
 20 Code 1989, is amended by striking the paragraph.
 21 Sec. _____. Section 279.19, unnumbered paragraph 3,
 22 Code 1989, is amended to read as follows:
 23 The board's decision to terminate a probationary
 24 teacher's contract shall be final and binding unless
 25 the termination was based upon an alleged violation of
 26 a constitutionally guaranteed right of the teacher or
 27 an alleged violation of public employee rights of the
 28 teacher under section 20.10.
 29 Sec. _____. Section 279.23, unnumbered paragraph 3,
 30 Code 1989, is amended to read as follows:
 31 An administrator's contract shall be governed by
 32 the provisions of this section and sections 279.23A,
 33 279.24, and 279.25 ~~and not by section 279.13.~~ For
 34 purposes of this section and sections 279.23A, 279.24,
 35 and 279.25, the term "administrator" includes school
 36 superintendents, assistant superintendents,
 37 educational directors, principals, assistant
 38 principals, and other certified school supervisors as
 39 defined under section 20.4.
 40 Sec. _____. REPEALS. Sections 279.13, 279.15,
 41 279.16, 279.17, 279.18, 279.19A, 279.19B, and 279.27,
 42 Code 1989, are repealed.
 43 Sec. _____. EFFECTIVE DATE.
 44 1. Section 1 of this Act takes effect July 1,
 45 1989.
 46 2. All other sections of this Act take effect July
 47 1, 1991."
 48 4. Title page, line 2, by inserting after the
 49 word "bargaining" the following: ", repealing certain
 50 statutory provisions relating to the discharge of

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Page 3

1 teachers, providing an effective date, and providing
 2 other properly related matters".
 3 5. By renumbering as necessary.

By LINN FUHRMAN

S-3343 FILED MARCH 20, 1989

Out of Order 3-28-89 (p. 1043)

SENATE FILE 385

S-3419

1 Amend Senate File 385 as follows:

2 1. Page 1, by inserting after line 22 the
3 following:

4 "A teacher, as defined in section 279.13, subject
5 to a collective bargaining agreement that provides
6 binding arbitration to determine whether the teacher's
7 continuing contract is being terminated for just
8 cause, shall not pursue a remedy under sections 279.15
9 through 279.18 for the termination of that contract."

10 2. Title page, line 1, by inserting after the
11 word "negotiations" the following: "and certain
12 binding arbitration provisions".

By RICHARD RUNNING

S-3419 FILED MARCH 27, 1989

Out of Order 3-28-89 (p.10/12)

SENATE FILE 385

5033

Amend Senate File 385, as passed by the Senate, as follows:

1. Page 1, line 11, by inserting before the word "matters" the following: "and".

2. Page 1, line 12, by striking the words "and other matters" and inserting the following: "and other-matters if".

3. Page 1, line 20, by inserting after the word "notice." the following: "The public employer may retain a portion of the dues checkoff in an amount sufficient to pay for the employer's costs of administering the dues checkoff."

By TYRRELL of Iowa

KREMER of Buchanan

HERMANN of Scott

MILLER of Cherokee

H-5033 FILED JANUARY 24, 1990

Done 1/25/90 (3:17)

GETTINGS, CH.
STURGEON
VANDEHOEF

SSB 213
BUSINESS & LABOR RELATIONS

SENATE FILE 335
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR RELATIONS
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the scope of negotiations for purposes of
2 public employment collective bargaining.

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

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1 Section 1. Section 20.9, unnumbered paragraph 1, Code
2 1989, is amended to read as follows:

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11 staff reduction, in-service training, matters of discipline
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TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

STATE CAPITOL

DES MOINES, IOWA 50319

515 281-5211

February 8, 1990

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RECEIVED
LUCAS

The Honorable Jo Ann Zimmerman
President of the Senate
State Capitol Building
L O C A L

Dear Madam President:

Senate File 385, an act relating to the scope of negotiations for purposes of public employment collective bargaining, is hereby disapproved and transmitted to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

Senate File 385 amends the Iowa Public Employment Relations Act by adding the words "matters of discipline and dismissal" to the list of mandatory subjects of bargaining in Section 20.9 of the Code of Iowa. I am very concerned about the need to maintain a balance between the rights of public employers and employees under collective bargaining and I am not inclined to tip that balance in favor of either employee or employer.

During the period since 1974, when the Iowa Public Employment Relations Act was created, the issues which are mandatory subjects of bargaining have been broadened by a number of decisions by the courts and by the Public Employment Relations Board. For example, a decision by the Iowa Supreme Court effectively expanded the scope of negotiations to include evaluation criteria as a mandatory subject of bargaining. Public employers have asserted that the balance has already been tipped in favor of public employees by these decisions, especially in view of the use of binding arbitration as the method for ultimately resolving disputes under Chapter 20.

Senate File 385 fails to address a possible conflict which may arise between the provisions of a contract relating to discipline and dismissal and the statutory termination procedures for certificated school employees under Chapter 279 of the Code. In the absence of provisions which would clarify this conflict, it is conceivable that employers and employees in schools would be

The Honorable Jo Ann Zimmerman
February 8, 1990
Page 2

faced with the burden of following both procedures. If both procedures were used and produced conflicting results, the final outcome of a termination would be unclear. This concern also applies to employees who are protected by civil service procedures under Chapter 400.

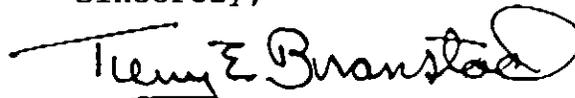
Matters of discipline and dismissal continue to be permissive subjects of bargaining which can be brought to the bargaining table by either the employer or employee organization. For example, the contract between the state of Iowa and its public employees currently includes procedures relating to discipline and dismissal. Public employers and employees will continue to mutually agree to include such procedures in their bargaining agreements.

The Public Employment Relations Act has served the citizens of Iowa well, and has provided for the smooth functioning of government at the state and local levels. In recent years, public employers and employees have begun to explore new avenues of collaboration outside of the formal bargaining process to discuss issues of mutual concern. This has been particularly true in the education community under Phase III of the Educational Excellence Act. Joint labor-management committees facilitated by the Public Employment Relations Board can also serve to promote cooperative activities among public employers and organizations which represent public employees.

In summary, any future changes to the Iowa Public Employment Relations Act should incorporate provisions which address the concerns of both public employers and public employees, should maintain a balance between employer and employee rights, and should not jeopardize future opportunities for employers and employees to work together outside of the bargaining process for the improvement of education and other important public services.

For the above reasons, I hereby respectfully disapprove Senate File 385.

Sincerely,



Terry E. Branstad
Governor

TEB/ps

cc Secretary of the Senate
Chief Clerk of the House
Secretary of State

member's written request and the member may terminate the dues checkoff at any time by giving thirty days' written notice. Such obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession.

SENATE FILE 385

AN ACT
RELATING TO THE SCOPE OF NEGOTIATIONS FOR PURPOSES OF PUBLIC
EMPLOYMENT COLLECTIVE BARGAINING.

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

Section 1. Section 20.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The public employer and the employee organization shall meet at reasonable times, including meetings reasonably in advance of the public employer's budget-making process, to negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training, matters of discipline and dismissal, and other matters mutually agreed upon. Negotiations shall also include terms authorizing dues checkoff for members of the employee organization and grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties. If an agreement provides for dues checkoff, a member's dues may be checked off only upon the

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 385, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved Feb. 8, 1990

TERRY E. BRANSTAD
Governor