

Revised 3/80

FEB 25 1988

HOUSE FILE 2339
BY COMMITTEE ON STATE
GOVERNMENT

Place On Calendar

(Formerly House Study Bill 553)

Passed House, Date 3/4/88 (p. 579) Passed Senate, Date 4/14/88 (p. 1591)
Vote: Ayes 95 Nays 0 Vote: Ayes 35 Nays 14
Approved May 12, 1988

A BILL FOR

1 An Act relating to grievances and discipline resolution in the
2 state personnel system.

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

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HF 2339

1 Section 1. Section 19A.14, Code Supplement 1987, is
2 amended by striking the section and inserting in lieu thereof
3 the following:

4 19A.14 GRIEVANCES AND DISCIPLINE RESOLUTION.

5 1. GRIEVANCES. An employee, except an employee covered by
6 a collective bargaining agreement which provides otherwise,
7 who has exhausted the available agency steps in the uniform
8 grievance procedure provided for in the department of
9 personnel rules may, within seven calendar days following the
10 date a decision was received or should have been received at
11 the second step of the grievance procedure, file the grievance
12 at the third step with the director. The director shall
13 respond within thirty calendar days following receipt of the
14 third step grievance.

15 If not satisfied, the employee may, within thirty calendar
16 days following the director's response, file an appeal with
17 the public employment relations board. The hearing shall be
18 conducted in accordance with the rules of the public employ-
19 ment relations board and the Iowa administrative procedure
20 Act. Decisions rendered shall be based upon a standard of
21 substantial compliance with this chapter and the rules of the
22 department of personnel. Decisions by the public employment
23 relations board constitute final agency action.

24 For purposes of this subsection, "uniform grievance
25 procedure" does not include procedures for discipline and
26 discharge.

27 2. DISCIPLINE RESOLUTION. A merit system employee and a
28 member of the Iowa highway safety patrol or other peace
29 officer employed by the department of public safety, except an
30 employee covered by a collective bargaining agreement, who is
31 discharged, suspended, demoted, or otherwise reduced in pay,
32 except during the employee's probationary period, may bypass
33 steps one and two of the grievance procedure and appeal the
34 disciplinary action to the director within seven calendar days
35 following the effective date of the action. The director

1 shall respond within thirty calendar days following receipt of
2 the appeal.

3 If not satisfied, the employee may, within thirty calendar
4 days following the director's response, file an appeal with
5 the public employment relations board. The employee has the
6 right to a hearing closed to the public, unless a public hear-
7 ing is requested by the employee. The hearing shall otherwise
8 be conducted in accordance with the rules of the public
9 employment relations board and the Iowa administrative
10 procedure Act. If the public employment relations board finds
11 that the action taken by the appointing authority was for
12 political, religious, racial, national origin, sex, age, or
13 other reasons not constituting just cause, the employee may be
14 reinstated without loss of pay or benefits for the elapsed
15 period, or the public employment relations board may provide
16 other appropriate remedies. Decisions by the public
17 employment relations board constitute final agency action.

18 EXPLANATION

19 This bill revises provisions relating to discipline reso-
20 lution and grievances in the state personnel system for
21 employees not covered by collective bargaining agreements.

22 With respect to discipline resolution, current law allows a
23 total of thirty days from the date of disciplinary action for
24 the employee to appeal to the appointing authority, the
25 appointing authority to respond, and the employee to appeal to
26 the public employment relations board (PERB).

27 With respect to grievances, current law sets out a more
28 extended process which includes an appeal to the director of
29 the department of personnel preceding an appeal to PERB.

30 This bill amends the law to establish similar processes for
31 both discipline resolution and grievances. The time limits
32 are extended. In the case of discipline resolution, the step
33 immediately preceding appeal to PERB is changed to include
34 appeal to the director of personnel rather than to the
35 appointing authority.

1 The bill also removes the language limiting the grievance
2 provisions to merit system employees.

3 SIMILAR TO HSB 553 (LSB 7361DH)

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HOUSE FILE 2339

H-5278

1 Amend House File 2339 as follows:

2 1. Page 1, by striking lines 27 through 29 and
3 inserting the following:

4 "2. DISCIPLINE RESOLUTION. A merit system
5 employee, except an".

6 2. Page 2, by inserting after line 17 the
7 following:

8 "Sec. ____ . Section 80.15, Code 1987, is amended to
9 read as follows:

10 80.15 EXAMINATION -- OATH -- PROBATION --
11 DISMISSAL.

12 An applicant for membership in the department of
13 public safety, except clerical workers and special
14 agents appointed under section 80.7, shall not be
15 appointed as a member until the applicant has passed a
16 satisfactory physical and mental examination. In
17 addition, the applicant must be a citizen of the
18 United States, of good moral character, and be not
19 less than twenty-two years of age. The mental
20 examination shall be conducted under the direction or
21 supervision of the director of public safety and may
22 be oral or written or both. Each applicant shall take
23 an oath on becoming a member of the force, to uphold
24 the laws and Constitution of the United States and of
25 the state of Iowa. During the period of twelve months
26 after appointment, any member of the department of
27 public safety, except members of the present Iowa
28 highway safety patrol who have served more than six
29 months, is subject to dismissal at the will of the
30 director. After the twelve months' service, a member
31 of the department, who was appointed after having
32 passed the examinations, is not subject to dismissal,
33 suspension, disciplinary demotion, or other
34 disciplinary action resulting in the loss of pay
35 unless charges have been filed with the department of
36 inspections and appeals and a hearing held by the
37 employment appeal board created by section 10A.601, if
38 requested by the member, at which the member has an
39 opportunity to present a defense to the charges. The
40 decision of the appeal board is final, subject to the
41 right of judicial review in accordance with the terms
42 of the Iowa administrative procedure Act. However,
43 these procedures as to dismissal, suspension,
44 demotion, or other discipline do not apply to a member
45 who is covered by a collective bargaining agreement
46 which provides otherwise nor to the demotion of a
47 division head to the rank which the division head held
48 at the time of appointment as division head, if any.
49 A division head who is demoted has the right to return
50 to the rank which the division head held at the time

H-5278

Page Two

1 of appointment as division head, if any. All rules,
2 except employment provisions negotiated pursuant to
3 chapter 70, regarding the enlistment, appointment, and
4 employment affecting the personnel of the department
5 shall be established by the director in consultation
6 with the director of the department of personnel,
7 subject to approval by the governor."

8 3. By numbering and renumbering as necessary.

9 4. Title page, lines 1 and 2, by striking the
10 words "in the state personnel system" and inserting
11 the following: "for certain employees of the state".

H-5278 FILED MARCH 3, 1988 BY CONNORS & Polk

Adopted 2/4 (of 576)

Law State House #
Amended per 5578. Dr. Quinn 5/25 (g. 1049)

HOUSE FILE 2339
BY COMMITTEE ON STATE
GOVERNMENT

(As Amended and Passed by the House March 4, 1988)

Passed House, Date Law B. 2.5 Passed Senate, Date 4/14/88 (g. 1591)
Vote: Ayes _____ Nays _____ Vote: Ayes 35 Nays 14
Approved May 12, 1988

A BILL FOR

5571 An Act relating to grievances and discipline resolution for
2 certain employees of the state.

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

House Amendments _____

Conference Committee Appointed 4/16/88

9 Senators: Mason (Chair), Welbit, Brown, Guckesman, & Van der Hoef (g. 1677)
10 Representatives: Conners (Chair), Lammont, Shergov, Carpenter, & Harmons (g. 2137)

Resubmitted Conference Committee Report

13 Passed House 4/16/88 (g. 2214) Passed Senate 4/17/88 (g. 1757)
14 88-0 46-0

1 Section 1. Section 19A.14, Code Supplement 1987, is
2 amended by striking the section and inserting in lieu thereof
3 the following:

4 19A.14 GRIEVANCES AND DISCIPLINE RESOLUTION.

5 1. GRIEVANCES. An employee, except an employee covered by
6 a collective bargaining agreement which provides otherwise,
7 who has exhausted the available agency steps in the uniform
8 grievance procedure provided for in the department of
9 personnel rules may, within seven calendar days following the
10 date a decision was received or should have been received at
11 the second step of the grievance procedure, file the grievance
12 at the third step with the director. The director shall
13 respond within thirty calendar days following receipt of the
14 third step grievance.

15 If not satisfied, the employee may, within thirty calendar
16 days following the director's response, file an appeal with
17 the public employment relations board. The hearing shall be
18 conducted in accordance with the rules of the public employ-
19 ment relations board and the Iowa administrative procedure
20 Act. Decisions rendered shall be based upon a standard of
21 substantial compliance with this chapter and the rules of the
22 department of personnel. Decisions by the public employment
23 relations board constitute final agency action.

24 For purposes of this subsection, "uniform grievance
25 procedure" does not include procedures for discipline and
26 discharge.

27 2. DISCIPLINE RESOLUTION. A merit system employee, except
28 an employee covered by a collective bargaining agreement, who
29 is discharged, suspended, demoted, or otherwise reduced in
30 pay, except during the employee's probationary period, may
31 bypass steps one and two of the grievance procedure and appeal
32 the disciplinary action to the director within seven calendar
33 days following the effective date of the action. The director
34 shall respond within thirty calendar days following receipt of
35 the appeal.

1 If not satisfied, the employee may, within thirty calendar
2 days following the director's response, file an appeal with
3 the public employment relations board. The employee has the
4 right to a hearing closed to the public, unless a public hear-
5 ing is requested by the employee. The hearing shall otherwise
6 be conducted in accordance with the rules of the public
7 employment relations board and the Iowa administrative
8 procedure Act. If the public employment relations board finds
9 that the action taken by the appointing authority was for
10 political, religious, racial, national origin, sex, age, or
11 other reasons not constituting just cause, the employee may be
12 reinstated without loss of pay or benefits for the elapsed
13 period, or the public employment relations board may provide
14 other appropriate remedies. Decisions by the public
15 employment relations board constitute final agency action.

16 Sec. 2. Section 80.15, Code 1987, is amended to read as
17 follows:

18 80.15 EXAMINATION -- OATH -- PROBATION --DISMISSAL.

19 An applicant for membership in the department of public
20 safety, except clerical workers and special agents appointed
21 under section 80.7, shall not be appointed as a member until
22 the applicant has passed a satisfactory physical and mental
23 examination. In addition, the applicant must be a citizen of
24 the United States, of good moral character, and be not less
25 than twenty-two years of age. The mental examination shall be
26 conducted under the direction or supervision of the director
27 of public safety and may be oral or written or both. Each
28 applicant shall take an oath on becoming a member of the
29 force, to uphold the laws and Constitution of the United
30 States and of the state of Iowa. During the period of twelve
31 months after appointment, any member of the department of
32 public safety, except members of the present Iowa highway
33 safety patrol who have served more than six months, is subject
34 to dismissal at the will of the director. After the twelve
35 months' service, a member of the department, who was appointed

1 after having passed the examinations, is not subject to
2 dismissal, suspension, disciplinary demotion, or other
3 disciplinary action resulting in the loss of pay unless
4 charges have been filed with the department of inspections and
5 appeals and a hearing held by the employment appeal board
6 created by section 10A.601, if requested by the member, at
7 which the member has an opportunity to present a defense to
8 the charges. The decision of the appeal board is final,
9 subject to the right of judicial review in accordance with the
10 terms of the Iowa administrative procedure Act. However,
11 these procedures as to dismissal, suspension, demotion, or
12 other discipline do not apply to a member who is covered by a
13 collective bargaining agreement which provides otherwise nor
14 to the demotion of a division head to the rank which the
15 division head held at the time of appointment as division
16 head, if any. A division head who is demoted has the right to
17 return to the rank which the division head held at the time of
18 appointment as division head, if any. All rules, except
19 employment provisions negotiated pursuant to chapter 20,
20 regarding the enlistment, appointment, and employment
21 affecting the personnel of the department shall be established
22 by the director in consultation with the director of the
23 department of personnel, subject to approval by the governor.

24 SIMILAR TO HSB 553 (LSB 7361DH)

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S-5617 Page 3

- 1 take effect July 1, 1988.
- 2 2. All other sections of this Act take effect July
- 3 1, 1990."
- 4 4. Page 1, line 33, by inserting after the word
- 5 "bargaining" the following: ", repealing certain
- 6 statutory provisions relating to teachers, providing
- 7 an effective date, and providing other properly
- 8 related matters".
- 9 5. By renumbering as necessary.

S-5617

Filed March 29, 1988

BY LINN FUHRMAN

Revised from original on 4/14/88 (p. 154)

HOUSE FILE 2339

S-5653

- 1 Amend House File 2339, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 24, by striking the words ", of
- 4 good moral character," and inserting the following:
- 5 "~~7-of-good-moral-character,~~".
- 6 2. Page 2, line 25, by striking the words
- 7 "twenty-two" and inserting the following: "twenty-two
- 8 eighteen".

S-5653

Filed March 30, 1988

BY TOM MANN, Jr.

A. Adopted 4/14/88 (p. 154)

B. June (p. 154)

HOUSE FILE 2339

S-5578

1 Amend House File 2339 as follows:

2 1. Page 2, by inserting after line 15 the
3 following:

4 "Sec. ____ . Section 20.9, unnumbered paragraph 1,
5 Code 1987, is amended to read as follows:

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

29 2. Title page, by striking lines 1 and 2 and
30 inserting the following: "An Act relating to public
31 employee relations by revising provisions relating to
32 grievances, discipline, and discharge and subjects of
33 bargaining."

34 3. By renumbering as necessary.

S-5578

Filed March 25, 1988

Checked not germane 3/25/88

BY COMMITTEE ON STATE GOVERNMENT
ROBERT CARR, Chairperson

HOUSE FILE 2339

S-5617

1 Amend the Committee amendment, S-5578, to House
2 File 2339, as amended, passed, and reprinted by the
3 House, as follows:

4 1. Page 1, line 16, by inserting after the word
5 "discharge" the following: "procedures".

6 2. Page 1, line 21, by inserting after the word
7 "parties." the following: "For the purposes of this
8 section, the term "procedure" does not include
9 criteria or matters of substance."

10 3. Page 1, by inserting after line 28 the
11 following:

12 " . Page 3, by inserting after line 23 the
13 following:

14 "Sec. . Section 256.10, Code 1987, is amended
15 to read as follows:

16 256.10 EMPLOYMENT OF PROFESSIONAL STAFF.

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

34 Sec. . Section 261.45, subsection 1, Code
35 Supplement 1987, is amended to read as follows:

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

42 Sec. . Section 262.9, subsection 2, Code
43 Supplement 1987, is amended to read as follows:

44 2. Elect a president of each of the institutions
45 of higher learning; a superintendent of each of the
46 other institutions; a treasurer and a secretarial
47 officer for each institution annually; professors,
48 instructors, officers, and employees; and fix their
49 compensation. Sections 279.12 ~~through-279-19~~ and
50 ~~section-279-27~~ 279.14 apply to employees of the Iowa

1 braille and sight-saving school and the state school
2 for the deaf, who are certificated pursuant to chapter
3 260. In following those sections in chapter 279, the
4 references to boards of directors of school districts
5 shall be interpreted to apply to the board of regents.

6 Sec. _____. Section 275.33, subsection 1, Code 1987,
7 is amended to read as follows:

8 1. The terms of employment of superintendents, and
9 principals, ~~and teachers,~~ for the school year
10 following the effective date of the formation of the
11 new district shall not be affected by the formation of
12 the new district, except in accordance with the
13 provisions of ~~sections 279.15 to 279.18 and section~~
14 279.24 and the authority and responsibility to offer
15 new contracts or to continue, modify, or terminate
16 existing contracts pursuant to sections 279.12,
17 ~~279.13, 279.15 to 279.20,~~ 279.21, 279.23, and 279.24
18 for the school year beginning with the effective date
19 of the reorganization shall be transferred from the
20 boards of the existing districts to the board of the
21 new district on the third Tuesday of January prior to
22 the school year the reorganization is effective.

23 Sec. _____. Section 279.19, unnumbered paragraph 2,
24 Code 1987, is amended by striking the paragraph.

25 Sec. _____. Section 279.19, unnumbered paragraph 3,
26 Code 1987, is amended to read as follows:

27 The board's decision to terminate a probationary
28 teacher's contract shall be final and binding unless
29 the termination was based upon an alleged violation of
30 a constitutionally guaranteed right of the teacher or
31 an alleged violation of public employee rights of the
32 teacher under section 20.10.

33 Sec. _____. Section 279.23, unnumbered paragraph 3,
34 Code Supplement 1987, is amended to read as follows:

35 An administrator's contract shall be governed by
36 the provisions of this section and sections 279.23A,
37 279.24, and 279.25 ~~and not by section 279.13.~~ For
38 purposes of this section and sections 279.23A, 279.24,
39 and 279.25, the term "administrator" includes school
40 superintendents, assistant superintendents,
41 educational directors, principals, assistant
42 principals, and other certified school supervisors as
43 defined under section 20.4.

44 Sec. _____. REPEALS. Sections 279.13, 279.15,
45 279.16, 279.17, 279.18, 279.19A, 279.19B, and 279.27,
46 Code 1987, are repealed.

47 Sec. _____. EFFECTIVE DATE.

48 1. The sections of this Act which amend section
49 19A.14, Code Supplement 1987, section 20.9, unnumbered
50 paragraph 1, Code 1987, and section 80.15, Code 1987,

HOUSE FILE 2339

S-5814

1 Amend House File 2339, as amended, passed, and re-
2 printed by the House, as follows:
3 1. Page 3, by inserting after line 23 the
4 following:
5 "Sec. ____ . APPLICABILITY. This section and the
6 amendments contained in this Act to section 80.15,
7 Code 1987, are retroactive to July 1, 1978."
8 2. Title page, line 2, by inserting after the
9 word "state" the following: "and providing for the
10 applicability of the Act".
11 3. By renumbering as necessary.

S-5814

Filed April 6, 1988

Adopted 4/14/88 (p. 158-2)

BY JOE WELSH

LEE W. HOLT

HOUSE FILE 2339

S-6007

1 Amend House File 2339 as amended, passed and
2 reprinted by the House, as follows:
3 1. Page 2, by inserting after line 15 the
4 following:
5 "Sec. ____ . NEW SECTION. 19A.41 DISCIPLINE AND
6 DISMISSAL GENERALLY.
7 1. For public employees covered by collective
8 bargaining agreements, matters of discipline and
9 dismissal shall be included within good faith
10 negotiations between public employers and employee
11 organizations.
12 2. This section shall be administered by and
13 subject to the rules and policies of the public
14 employment relations board as provided in chapter 20
15 and shall not be construed as a part of the rules and
16 policies governing the state personnel system.
17 3. As used in this section, the terms "public
18 employee", "public employer", and "employee
19 organization" mean as defined in section 20.3."
20 2. Title page, lines 1 and 2, by striking the
21 words "and discipline resolution for certain employees
22 of the state" and inserting the following: ",
23 discipline, and dismissal of public employees".
24 3. By renumbering as necessary.

S-6007

Filed April 14, 1988

ADOPTED

4/15/88

BY

WALLY HORN

ROBERT CARR

C. JOSEPH COLEMAN

HOUSE FILE 2339

S-6020

1 Amend amendment S-6007, to House File 2339, as
2 amended, passed and reprinted by the House as follows:
3 1. Page 1, line 9, by striking the word "shall"
4 and inserting the following: "may".

S-6020

Filed April 14, 1988 LOST BY CALVIN HULTMAN

Lost 4/14 (p. 1590)

HOUSE FILE 2339

S-6023

1 Amend the amendment, S-6007, to House File 2339, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 1, by striking lines 17 through 19 and
5 inserting the following:
6 "3. This section applies to public employees
7 subject to the state merit system as provided in
8 section 19A.3."

S-6023

Filed April 14, 1988

LOST
(p. 1590)

BY LINN FUHRMAN

HOUSE FILE 2339

S-6024

1 Amend the amendment, S-6007, to House File 2339, as
2 amended, passed, and reprinted by the House as
3 follows:
4 1. Page 1, line 11, by inserting after the word
5 "organizations" the following: "upon the mutual
6 consent of both parties".

S-6024

Filed April 14, 1988

LOST
(p. 1590)

BY LINN FUHRMAN

SENATE AMENDMENT TO HOUSE FILE 2339

H-6494

1 Amend House File 2339, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, by inserting after line 15 the
4 following:

5 "Sec. ____ . NEW SECTION. 19A.41 DISCIPLINE AND
6 DISMISSAL GENERALLY.

7 1. For public employees covered by collective
8 bargaining agreements, matters of discipline and
9 dismissal shall be included within good faith
10 negotiations between public employers and employee
11 organizations.

12 2. This section shall be administered by and
13 subject to the rules and policies of the public
14 employment relations board as provided in chapter 20
15 and shall not be construed as a part of the rules and
16 policies governing the state personnel system.

17 3. As used in this section, the terms "public
18 employee", "public employer", and "employee
19 organization" mean as defined in section 20.3."

20 2. Page 2, line 24, by striking the words ", of
21 good moral character," and inserting the following:
22 "~~7-of-good-moral-character~~".

23 3. Page 3, by inserting after line 23 the
24 following:

25 "Sec. ____ . APPLICABILITY. This section and the
26 amendments contained in this Act to section 80.15,
27 Code 1987, are retroactive to July 1, 1978."

28 4. Title page, lines 1 and 2, by striking the
29 words "and discipline resolution for certain employees
30 of the state" and inserting the following: ",
31 discipline, and dismissal of public employees".

32 5. Title page, line 2, by inserting after the
33 word "state" the following: "and providing for the
34 applicability of the Act".

35 6. By renumbering, relettering, or redesignating
36 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-6494 FILED APRIL 15, 1988

REFUSED TO CONCUR (p. 2015)

Senate Journal 4/15 (p. 1696)

HOUSE FILE 2339

6510

Amend the Senate amendment, H-6494, to House File 2339 as amended, passed, and reprinted by the House, as follows:

1. Page 1, line 5, by striking the figure "19A.41".
2. Page 1, by striking lines 20 through 27.
3. Page 1, by inserting before line 28 the following:
"_____. Page 3, by inserting after line 23 the following:
"Sec. _____. The Code editor shall determine the appropriate placement in the Code for the new section entitled "Discipline and Dismissal Generally", as enacted by this Act."
4. Page 1, by striking lines 32 through 34.
5. By renumbering as necessary.

By BLANSHAN of Greene

H-6510 FILED APRIL 15, 1988

WITHDRAWN (p. 2014)

HOUSE FILE 2339

H-6508

Amend the Senate amendment H-6494 to House File 2339, as amended, passed, and reprinted by the House as follows:

1. Page 1, by striking lines 20 through 27.
2. Page 1, by striking lines 32 through 34.

By SHERZAN of Polk

H-6508 FILED APRIL 15, 1988

WITHDRAWN (p. 2014)

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 2339

To the Speaker of the House of Representatives and the President of the Senate:

We, the undersigned members of the conference committee appointed to resolve the differences between the House of Representatives and the Senate on House File 2339, a bill for An Act relating to grievances and discipline resolution for certain employees of the state, respectfully make the following report:

1. That the Senate recedes from its amendment, H-6494.
2. Amend House File 2339, as amended, passed, and printed by the House as follows:

1. Page 2, line 24, by striking the words ", of good moral character," and inserting the following: "~~7-of-good moral-character7~~".

ON THE PART OF THE HOUSE:

JOHN H. CONNORS, CHAIR
DOROTHY F. CARPENTER
JOHNIE HAMMOND
DONALD F. HERMANN
GARY SHERZAN

FILED APRIL 16, 1988
ADOPTED (p. 20-0)

ON THE PART OF THE SENATE:

THOMAS MANN, JR., CHAIR
LINN FUHRMAN
WALLY E. HORN
RICHARD J. VANDE HOEF

Senate adopted 4/17/88 (757)

HSB 553

House Study Bill 553

STATE GOVERNMENT

State Government: Blanshan, Chair: Carpenter, Connors, Hammond and Hanson of Delaware.

Now
2339

HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF PERSONNEL BILL)

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

A BILL FOR

1 An Act relating to grievances and discipline resolution in the
2 state personnel system.

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

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1 Section 1. Section 19A.14, Code Supplement 1987, is
2 amended by striking the section and inserting in lieu thereof
3 the following:

4 19A.14 GRIEVANCES AND DISCIPLINE RESOLUTION.

5 1. GRIEVANCES. An employee, except an employee covered by
6 a collective bargaining agreement which provides otherwise,
7 who has exhausted the available agency steps in the uniform
8 grievance procedure provided for in the department of
9 personnel rules may, within seven calendar days following the
10 date a decision was received or should have been received at
11 the second step of the grievance procedure, file the grievance
12 at the third step with the director. The director shall
13 respond within thirty calendar days following receipt of the
14 third step grievance.

15 If not satisfied, the employee may, within thirty calendar
16 days following the director's response, file an appeal with
17 the public employment relations board. The hearing shall be
18 conducted in accordance with the rules of the public employ-
19 ment relations board and the Iowa administrative procedure
20 Act. Decisions rendered shall be based upon a standard of
21 substantial compliance with this chapter and the rules of the
22 department of personnel. Decisions by the public employment
23 relations board constitute final agency action.

24 2. DISCIPLINE RESOLUTION. A merit system employee, except
25 an employee covered by a collective bargaining agreement, who
26 is discharged, suspended, demoted, or otherwise reduced in
27 pay, except during the employee's probationary period, may
28 bypass steps one and two of the grievance procedure and appeal
29 the disciplinary action to the director within seven calendar
30 days following the effective date of the action. The director
31 shall respond within thirty calendar days following receipt of
32 the appeal.

33 If not satisfied, the employee may, within thirty calendar
34 days following the director's response, file an appeal with
35 the public employment relations board. The employee has the

1 right to a hearing closed to the public, unless a public hear-
2 ing is requested by the employee. The hearing shall otherwise
3 be conducted in accordance with the rules of the public
4 employment relations board and the Iowa administrative
5 procedure Act. If the public employment relations board finds
6 that the action taken by the appointing authority was for
7 political, religious, racial, national origin, sex, age, or
8 other reasons not constituting just cause, the employee may be
9 reinstated without loss of pay or benefits for the elapsed
10 period, or the public employment relations board may provide
11 other appropriate remedies. Decisions by the public
12 employment relations board constitute final agency action.

13 EXPLANATION

14 This bill revises provisions relating to discipline reso-
15 lution and grievances in the state personnel system for
16 employees not covered by collective bargaining agreements.

17 With respect to discipline resolution, current law allows a
18 total of thirty days from the date of disciplinary action for
19 the employee to appeal to the appointing authority, the
20 appointing authority to respond, and the employee to appeal to
21 the public employment relations board (PERB).

22 With respect to grievances, current law sets out a more
23 extended process which includes an appeal to the director of
24 the department of personnel preceding an appeal to PERB.

25 This bill amends the law to establish similar processes for
26 both discipline resolution and grievances. The time limits
27 are extended. In the case of discipline resolution, the step
28 immediately preceding appeal to PERB is changed to include
29 appeal to the director of personnel rather than to the
30 appointing authority.

31 The bill also removes the language limiting the grievance
32 provisions to merit system employees.

33 BACKGROUND STATEMENT

34 SUBMITTED BY THE AGENCY

35 Current language in 19A.14(1) allows a total of 30 days

1 from the date of disciplinary action for the employee to
2 appeal to the appointing authority, the appointing authority
3 to respond, and the employee to appeal to PERB.

4 Current language in 19A.14(2) also sets out a 60-day
5 process for grievances which do not involve discipline.

6 This departmental proposal does several things:

7 1. Establishes a uniform process for both grievances and
8 discipline resolution, and sets out time limits for each step.

9 2. Replaces the appointing authority with the director of
10 personnel in the discipline resolution procedure in order to
11 facilitate the resolution of such grievances before they go to
12 PERB (as in all the collective bargaining agreements).

13 3. Eliminates the statement in the discipline resolution
14 subsection "Decisions rendered shall be based upon a standard
15 of just cause", (this is redundant due to the reference later
16 in the paragraph).

17 4. Includes all executive branch employees in the
18 grievance subsection, which is currently restricted to merit
19 system employees. 19A.9(17) requires this department to
20 establish administrative rules which provide for a "uniform
21 plan for resolving employee grievances and complaints". The
22 department is in compliance with 19A.9(12), but 19A.14 needs
23 to be amended to eliminate this conflicting reference to merit
24 system employees.

25 COMPANION TO LSB 7362DS

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HOUSE FILE 2339

AN ACT

RELATING TO GRIEVANCES AND DISCIPLINE RESOLUTION FOR CERTAIN
EMPLOYEES OF THE STATE.

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

Section 1. Section 19A.14, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

19A.14 GRIEVANCES AND DISCIPLINE RESOLUTION.

1. GRIEVANCES. An employee, except an employee covered by a collective bargaining agreement which provides otherwise, who has exhausted the available agency steps in the uniform grievance procedure provided for in the department of personnel rules may, within seven calendar days following the date a decision was received or should have been received at the second step of the grievance procedure, file the grievance at the third step with the director. The director shall respond within thirty calendar days following receipt of the third step grievance.

If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board. The hearing shall be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure

Act. Decisions rendered shall be based upon a standard of substantial compliance with this chapter and the rules of the department of personnel. Decisions by the public employment relations board constitute final agency action.

For purposes of this subsection, "uniform grievance procedure" does not include procedures for discipline and discharge.

2. DISCIPLINE RESOLUTION. A merit system employee, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise reduced in pay, except during the employee's probationary period, may bypass steps one and two of the grievance procedure and appeal the disciplinary action to the director within seven calendar days following the effective date of the action. The director shall respond within thirty calendar days following receipt of the appeal.

If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board. The employee has the right to a hearing closed to the public, unless a public hearing is requested by the employee. The hearing shall otherwise be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act. If the public employment relations board finds that the action taken by the appointing authority was for political, religious, racial, national origin, sex, age, or other reasons not constituting just cause, the employee may be reinstated without loss of pay or benefits for the elapsed period, or the public employment relations board may provide other appropriate remedies. Decisions by the public employment relations board constitute final agency action.

Sec. 2. Section 80.15, Code 1987, is amended to read as follows:

80.15 EXAMINATION - OATH -- PROBATION -- DISMISSAL.

An applicant for membership in the department of public safety, except clerical workers and special agents appointed under section 80.7, shall not be appointed as a member until the applicant has passed a satisfactory physical and mental examination. In addition, the applicant must be a citizen of the United States, ~~of good moral character~~; and be not less than twenty-two years of age. The mental examination shall be conducted under the direction or supervision of the director of public safety and may be oral or written or both. Each applicant shall take an oath on becoming a member of the force, to uphold the laws and Constitution of the United States and of the state of Iowa. During the period of twelve months after appointment, any member of the department of public safety, except members of the present Iowa highway safety patrol who have served more than six months, is subject to dismissal at the will of the director. After the twelve months' service, a member of the department, who was appointed after having passed the examinations, is not subject to dismissal, suspension, disciplinary demotion, or other disciplinary action resulting in the loss of pay unless charges have been filed with the department of inspections and appeals and a hearing held by the employment appeal board created by section 10A.601, if requested by the member, at which the member has an opportunity to present a defense to the charges. The decision of the appeal board is final, subject to the right of judicial review in accordance with the terms of the Iowa administrative procedure Act. However, these procedures as to dismissal, suspension, demotion, or other discipline do not apply to a member who is covered by a collective bargaining agreement which provides otherwise nor to the demotion of a division head to the rank which the division head held at the time of appointment as division head, if any. A division head who is demoted has the right to return to the rank which the division head held at the time of appointment as division head, if any. All rules, except

employment provisions negotiated pursuant to chapter 20, regarding the enlistment, appointment, and employment affecting the personnel of the department shall be established by the director in consultation with the director of the department of personnel, subject to approval by the governor.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2339, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *Mryl Z* _____, 1988

TERRY E. BRANSTAD
Governor