

SENATE FILE 313
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SSB 1118)

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

A BILL FOR

1 An Act concerning public employee collective bargaining.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3

4 **SENATE FILE 313** [REDACTED]

5 **S-3094**

6 1 Amend the amendment, S-3085, to Senate File 313 as follows:

7 2 1. Page 1, line 48, by striking the word
8 3 "condition," and inserting the following: "condition
9 4 and".

10 5 2. Page 1, lines 49 and 50, by striking the words
11 6 ", and the general condition of the economy as a
12 7 whole".

13 **By NEAL SCHUERER**

14 **S-3094** FILED MARCH 26, 2003

15 ADOPTED 3/26/03

16

17 **SENATE FILE 313** [REDACTED]

18 **S-3093**

19 1 Amend the amendment, S-3085, to Senate File 313 as follows:

20 2 1. Page 1, line 25, by inserting after the word
21 3 "sector" the following: "employees, based upon the
22 4 employment and wages annual averages report issued by
23 5 the United States department of labor, bureau of labor
24 6 statistics,".

25 **By NEAL SCHUERER**

26 **S-3093** FILED MARCH 26, 2003

27 ADOPTED 3/26/03

SF 313

1 Section 1. Section 20.9, unnumbered paragraph 1, Code
2 2003, is amended to read as follows:

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, and in-service training and other matters
12 mutually-agreed-upon. Negotiations shall also include terms
13 authorizing dues checkoff for members of the employee
14 organization and grievance procedures for resolving any
15 questions arising under the agreement, which shall be embodied
16 in a written agreement and signed by the parties. If an
17 agreement provides for dues checkoff, a member's dues may be
18 checked off only upon the member's written request and the
19 member may terminate the dues checkoff at any time by giving
20 thirty days' written notice. Such obligation to negotiate in
21 good faith does not compel either party to agree to a proposal
22 or make a concession.

23 Sec. 2. Section 20.22, subsection 4, Code 2003, is amended
24 by adding the following new paragraph:

25 NEW PARAGRAPH. e. Each arbitrator appointed shall be a
26 resident of Iowa and shall have some private sector employment
27 experience.

28 Sec. 3. Section 20.22, subsection 9, paragraph b, Code
29 2003, is amended to read as follows:

30 b. Comparison of the total compensation, including wages,
31 hours, benefits, and conditions of employment of the involved
32 public employees with those of other private sector and public
33 employees doing comparable work, giving consideration to
34 factors peculiar to the area and the classifications involved.

35 Sec. 4. Section 20.22, subsection 9, paragraph d, Code

1 2003, is amended by striking the paragraph.

2 EXPLANATION

3 This bill makes changes to the provisions governing public
4 employee collective bargaining.

5 The bill limits the scope of negotiations concerning public
6 employee collective bargaining to those items specifically
7 listed in Code section 20.9 and eliminates the ability to
8 negotiate on other items as mutually agreed upon by the public
9 employer and the employee organization.

10 The bill provides that all individuals appointed to
11 arbitrate public employee collective bargaining disputes under
12 Code section 20.22 be Iowa residents and have some previous
13 private sector employment experience.

14 The bill provides that an arbitrator shall compare the
15 total compensation, including benefits, of the employees
16 subject to the arbitration to those of both private sector and
17 public employees. The bill also eliminates, as an arbitrator
18 consideration, the power of the public employer to levy taxes
19 and appropriate funds for the conduct of its operations.

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SF 313 - Collective Bargaining (LSB 2863 SV)

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Fiscal Note Version — New

Description

Senate File 313 eliminates "other matters mutually agreed upon" from the list of permissive topics for collective bargaining listed in Section 20.9, Code of Iowa.

The Bill adds the requirement that an arbitrator selected for collective bargaining must be an Iowa resident and have private sector employment experience.

The Bill requires an arbitrator to compare the total compensation, including benefits, of the employees subject to the arbitration to those of both private sector and public employees.

The Bill also eliminates the requirement that the arbitrator considers the power of the public employer to levy taxes and appropriate funds.

Assumptions

1. There are approximately 1,100 public sector bargaining units that would be impacted by SF 313 and ten qualified Iowa resident arbitrators listed with the Public Employment Relations Board.
2. The Bill eliminates the requirement that the arbitrator consider the employer's ability to levy taxes.
3. The arbitrator would still be required to consider the interests and welfare of the public, the ability of the public employer to finance economic adjustments, and the effect of such adjustments on the normal standard of services.
4. The State does not have access to all private sector employee compensation information.

Fiscal Impact

Due to insufficient information, the fiscal impact of SF 313 cannot be determined.

Source

Iowa Department of Management

/s/ Dennis C Prouty

March 12, 2003

S-3085

1 Amend Senate File 313 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 20.6, subsection 2, Code 2003,
5 is amended to read as follows:

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

13 Sec. 2. NEW SECTION. 20.16A BARGAINING FACTORS.

14 The public employer and the certified employee
15 organization shall consider, in addition to any other
16 relevant factors, the following bargaining factors in
17 negotiating a collective bargaining agreement under
18 this chapter:

19 1. Past collective bargaining contracts between
20 the parties including the bargaining that led up to
21 such contracts.

22 2. Comparison of the total compensation, including
23 wages, hours, benefits, and conditions of employment
24 of the involved public employees with those of private
25 sector and other public employees doing comparable
26 work, giving consideration to factors peculiar to the
27 area and the classifications involved.

28 3. Consideration of the economic cost of each item
29 of a proposed collective bargaining agreement and the
30 relationship of the cost of each item to the total
31 economic cost of a proposed collective bargaining
32 agreement.

33 4. The interests and welfare of the public and the
34 effect on the public employer of financing economic
35 adjustments in a collective bargaining agreement on
36 the normal standard of services.

37 5. The ability of the public employer to finance
38 economic adjustments; provided, however, that the
39 employer's ability to finance economic adjustments
40 shall not be predicated on the premise that the
41 employer may increase or impose new taxes, fees, or
42 charges, use funds collected and otherwise dedicated
43 by law for a special or restricted purpose, or develop
44 other sources of revenue.

45 6. The present and anticipated future economic
46 conditions that may impact the financing of economic
47 adjustments, including consideration of the public
48 employer's financial condition, the general economic
49 condition of the state, and the general condition of
50 the economy as a whole.

S-3085

1 Sec. 3. Section 20.17, subsection 6, Code 2003, is
2 amended to read as follows:

3 6. No collective bargaining agreement or
4 arbitrators' decision shall be valid or enforceable if
5 its implementation would be inconsistent with any
6 statutory limitation on the public employer's funds,
7 spending or budget, which includes consideration of
8 the bargaining factors enumerated in section 20.16A,
9 or would substantially impair or limit the performance
10 of any statutory duty by the public employer. A
11 collective bargaining agreement or arbitrators' award
12 may provide for benefits conditional upon specified
13 funds to be obtained by the public employer, but the
14 agreement shall provide either for automatic reduction
15 of such conditional benefits or for additional
16 bargaining if the funds are not obtained or if a
17 lesser amount is obtained.

18 Sec. 4. Section 20.21, unnumbered paragraph 1,
19 Code 2003, is amended to read as follows:

20 If the impasse persists ten days after the mediator
21 has been appointed, the board shall appoint a fact-
22 finder representative of the public, from a list of
23 qualified persons maintained by the board. The fact-
24 finder shall conduct a hearing, may administer oaths,
25 and may request the board to issue subpoenas. The
26 fact-finder shall make written findings of facts and
27 recommendations for resolution of the dispute, taking
28 into consideration the bargaining factors enumerated
29 in section 20.16A, and, not later than fifteen days
30 from the day of appointment, shall serve such findings
31 on the public employer and the certified employee
32 organization.

33 Sec. 5. Section 20.22, subsection 9, Code 2003, is
34 amended by striking the subsection and inserting in
35 lieu thereof the following:

36 9. The panel of arbitrators shall consider, in
37 addition to any other relevant factors, the bargaining
38 factors enumerated in section 20.16A."

39 2. By renumbering as necessary.

By NEAL SCHUERER

SENATE FILE 313

S-3095

1 Amend the amendment, S-3085, to Senate File 313 as
2 follows:

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

5 "Section 1. Section 20.1, subsection 7, Code 2003,
6 is amended to read as follows:

7 ~~7. Assisting the attorney general in the~~
8 ~~preparation of~~ Preparing legal briefs and ~~the~~
9 ~~presentation of~~ presenting oral arguments in the
10 district court, the court of appeals, and the supreme
11 court in cases affecting the board.

12 Sec. _____. Section 20.1, Code 2003, is amended by
13 adding the following new subsection:

14 NEW SUBSECTION. 8. Providing mediators to assist
15 in the resolution of grievances arising under
16 collective bargaining and providing training and
17 facilitation for cooperative alternative bargaining
18 and dispute resolution processes at the discretion of
19 the board and upon joint request of the parties
20 involved.

21 Sec. _____. Section 20.3, subsection 4, Code 2003,
22 is amended to read as follows:

23 4. "Employee organization" means an organization
24 of any kind in which public employees participate and
25 which exists for the primary purpose of representing
26 ~~publie~~ employees in their employment relations.

27 Sec. _____. Section 20.5, subsection 5, Code 2003,
28 is amended to read as follows:

29 5. Members of the board and ~~other~~ employees of the
30 board shall be allowed their actual and necessary
31 expenses incurred in the performance of their duties.
32 All expenses and salaries shall be paid from
33 appropriations for such purposes and the board shall
34 be subject to the budget requirements of chapter 8."

35 2. Page 1, by inserting after line 12 the
36 following:

37 "Sec. _____. Section 20.6, subsection 3, Code 2003,
38 is amended to read as follows:

39 3. Establish minimum qualifications for
40 arbitrators, fact-finders, and mediators, establish
41 procedures for appointing, maintaining, and removing
42 from a list persons representative of the public to be
43 available to serve as arbitrators, fact-finders, and
44 mediators, and establish compensation rates for
45 arbitrators, fact-finders, and mediators.

46 Sec. _____. Section 20.10, subsection 2, paragraph
47 f, Code 2003, is amended to read as follows:

48 f. Deny the rights accompanying certification ~~or~~
49 ~~exclusive recognition~~ granted in this chapter.

50 Sec. _____. Section 20.10, subsection 3, paragraph

S-3095

1 b, Code 2003, is amended to read as follows:

2 b. Interfere, restrain, or coerce a public
3 employer with respect to rights granted in this
4 chapter or with respect to selecting a representative
5 for the purposes of negotiating collectively ~~or~~ or the
6 adjustment of grievances.

7 Sec. _____. Section 20.10, subsection 3, paragraph
8 f, Code 2003, is amended to read as follows:

9 f. Violate the provisions of sections 732.1 to
10 732.3, which are hereby made applicable to public
11 employers, public employees and ~~public~~ employee
12 organizations.

13 Sec. _____. Section 20.10, subsection 4, Code 2003,
14 is amended to read as follows:

15 4. The expressing of any views, argument or
16 opinion, or the dissemination thereof, whether orally
17 or in written, printed, graphic, or visual form shall
18 not constitute or be evidence of any ~~unfair labor~~
19 prohibited practice under any of the provisions of
20 this chapter, if such expression contains no threat of
21 reprisal or force or promise of benefit.

22 Sec. _____. Section 20.11, subsections 1, 2, and 3,
23 Code 2003, are amended to read as follows:

24 1. Proceedings against a party alleging a
25 violation of section 20.10, shall be commenced by
26 filing a complaint with the board within ninety days
27 of the alleged violation causing a copy of the
28 complaint to be served upon the accused party ~~in the~~
29 ~~manner of an original notice as provided in this~~
30 ~~chapter~~. The accused party shall have ten days within
31 which to file a written answer to the complaint.
32 However, the board may conduct a preliminary
33 investigation of the alleged violation, and if the
34 board determines that the complaint has no basis in
35 fact, the board may dismiss the complaint. The board
36 shall promptly thereafter set a time and place for
37 hearing in the county where the alleged violation
38 occurred, provided, however, that the presiding
39 officer may conduct the hearing through the use of
40 technology from a remote location. The parties shall
41 be permitted to be represented by counsel, summon
42 witnesses, and request the board to subpoena witnesses
43 on the requester's behalf. Compliance with the
44 technical rules of pleading and evidence shall not be
45 required.

46 2. The board may designate one of its members, an
47 administrative law judge, or any other qualified
48 person employed by the board to ~~conduct~~ serve as the
49 presiding officer at the hearing. The ~~administrative~~
50 ~~law judge~~ presiding officer has the powers as may be

1 exercised by the board for conducting the hearing and
2 shall follow the procedures adopted by the board for
3 conducting the hearing. The proposed decision of the
4 ~~administrative law judge~~ presiding officer may be
5 appealed to the board and ~~the board may hear the case~~
6 ~~de novo or upon the record as submitted before the~~
7 ~~administrative law judge, utilizing procedures~~
8 ~~governing appeals to the district court in this~~
9 ~~section so far as applicable, or reviewed on motion of~~
10 the board, in accordance with the provisions of
11 chapter 17A.

12 3. The board shall appoint a certified shorthand
13 reporter to report the proceedings and the board shall
14 fix the reasonable amount of compensation for such
15 service, and for any transcript requested by the
16 board, which amount amounts shall be taxed as other
17 costs.

18 Sec. _____. Section 20.13, subsections 2 and 3, Code
19 2003, are amended to read as follows:

20 2. Within thirty days of receipt of a petition ~~or~~
21 ~~notice to all interested parties if on its own~~
22 ~~initiative~~, the board shall conduct a public hearing,
23 receive written or oral testimony, and promptly
24 thereafter file an order defining the appropriate
25 bargaining unit. In defining the unit, the board
26 shall take into consideration, along with other
27 relevant factors, the principles of efficient
28 administration of government, the existence of a
29 community of interest among public employees, the
30 history and extent of public employee organization,
31 geographical location, and the recommendations of the
32 parties involved.

33 3. Appeals from such order shall be governed by
34 ~~appeal provisions provided in section 20.11~~ the
35 provisions of chapter 17A.

36 Sec. _____. Section 20.14, subsection 2, paragraph
37 a, Code 2003, is amended to read as follows:

38 a. The employee organization has submitted a
39 request to a public employer to bargain collectively
40 ~~with~~ on behalf of a designated group of public
41 employees.

42 Sec. _____. Section 20.14, subsection 6, Code 2003,
43 is amended by striking the subsection.

44 Sec. _____. Section 20.15, subsections 1, 2, and 6,
45 Code 2003, are amended to read as follows:

46 1. Upon the filing of a petition for certification
47 of an employee organization, the board shall submit a
48 question to the public employees at an election in ~~an~~
49 the appropriate bargaining unit. The question on the
50 ballot shall permit the public employees to vote for

1 no bargaining representation or for any employee
2 organization which has petitioned for certification or
3 which has presented proof satisfactory to the board of
4 support of ten percent or more of the public employees
5 in the appropriate unit.

6 2. If a majority of the votes cast on the question
7 is for no bargaining representation, the public
8 employees in the bargaining unit shall not be
9 represented by an employee organization. If a
10 majority of the votes cast on the question is for a
11 listed employee organization, then ~~the~~ that employee
12 organization shall represent the public employees in
13 ~~an appropriate~~ the bargaining unit.

14 6. A petition for certification as an exclusive
15 bargaining representative, or a petition for
16 decertification of a certified bargaining
17 representative, shall not be considered by the board
18 for a period of one year from the date of the
19 certification or noncertification of an employee
20 organization as an exclusive bargaining representative
21 or. The board shall also not consider a petition for
22 decertification of an exclusive bargaining
23 representative during the duration of a collective
24 bargaining agreement which, for purposes of this
25 section, shall be deemed not to exceed two years. A
26 collective bargaining agreement with the state, its
27 boards, commissions, departments, and agencies shall
28 be for two years and the provisions of a collective
29 bargaining agreement ~~except agreements agreed to or~~
30 ~~tentatively agreed to prior to July 1, 1977, or~~
31 ~~arbitrators'~~ arbitrator's award affecting state
32 employees shall not provide for renegotiations which
33 would require the refinancing of salary and fringe
34 benefits for the second year of the term of the
35 agreement, except as provided in section 20.17,
36 subsection 6, and the effective date of any such
37 agreement shall be July 1 of odd-numbered years,
38 provided that if an exclusive bargaining
39 representative is certified on a date which will
40 prevent the negotiation of a collective bargaining
41 agreement prior to July 1 of odd-numbered years for a
42 period of two years, the certified collective
43 bargaining representative may negotiate a one-year
44 contract with a public employer which shall be
45 effective from July 1 of the even-numbered year to
46 July 1 of the succeeding odd-numbered year when new
47 contracts shall become effective. However, if a
48 petition for decertification is filed during the
49 duration of a collective bargaining agreement, the
50 board shall award an election under this section not

1 more than one hundred eighty days nor less than one
2 hundred fifty days prior to the expiration of the
3 collective bargaining agreement. If an employee
4 organization is decertified, the board may receive
5 petitions under section 20.14, provided that no such
6 petition and no election conducted pursuant to such
7 petition within one year from decertification shall
8 include as a party the decertified employee
9 organization."

10 3. Page 1, by inserting after line 50 the
11 following:

12 "Sec. ____ . Section 20.17, subsection 3, Code 2003,
13 is amended to read as follows:

14 3. Negotiating sessions, strategy meetings of
15 public employers ~~or employee organizations~~, mediation
16 and the deliberative process of ~~arbitrators~~ an
17 arbitrator shall be exempt from the provisions of
18 chapter 21. However, the employee organization shall
19 present its initial bargaining position to the public
20 employer at the first bargaining session. The public
21 employer shall present its initial bargaining position
22 to the employee organization at the second bargaining
23 session, which shall be held no later than two weeks
24 following the first bargaining session. Both sessions
25 shall be open to the public and subject to the
26 provisions of chapter 21. Parties who by agreement
27 are utilizing a cooperative alternative bargaining
28 process may exchange their respective initial interest
29 statements in lieu of initial bargaining positions at
30 these open sessions and shall make minutes or
31 summaries of subsequent sessions available to the
32 public. Hearings conducted by ~~arbitrators~~ an
33 arbitrator shall be open to the public."

34 4. Page 2, line 4, by striking the word
35 "arbitrators'" and inserting the following:
36 "~~arbitrators'~~ arbitrator's".

37 5. Page 2, line 11, by striking the word
38 "arbitrators'" and inserting the following:
39 "~~arbitrators'~~ arbitrator's".

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

42 "Sec. ____ . Section 20.17, subsection 10, Code
43 2003, is amended to read as follows:

44 10. The negotiation of a proposed collective
45 bargaining agreement by representatives of a state
46 public employer and a state employee organization
47 shall be complete not later than March 15 of the year
48 when the agreement is to become effective. The board
49 shall provide, by rule, a date on which any impasse
50 item must be submitted to binding arbitration and for

1 such other procedures as deemed necessary to provide
2 for the completion of negotiations of proposed state
3 collective bargaining agreements not later than March
4 15. The date selected for the mandatory submission of
5 impasse items to binding arbitration shall be
6 sufficiently in advance of March 15 to insure that the
7 ~~arbitrators'~~ arbitrator's decision can be reasonably
8 made before March 15.

9 Sec. ____ . Section 20.17, subsection 11, Code 2003,
10 is amended to read as follows:

11 11. a. In the absence of an impasse agreement
12 negotiated pursuant to section 20.19 which provides
13 for a different completion date, public employees
14 represented by a certified employee organization who
15 are teachers licensed under chapter 272 and who are
16 employed by a public employer which is a school
17 district or area education agency shall complete the
18 negotiation of a proposed collective bargaining
19 agreement not later than May 31 of the year when the
20 agreement is to become effective. The board shall
21 provide, by rule, a date on which impasse items in
22 such cases must be submitted to binding arbitration
23 and for such other procedures as deemed necessary to
24 provide for the completion of negotiations of proposed
25 collective bargaining agreements not later than May
26 31. The date selected for the mandatory submission of
27 impasse items to binding arbitration in such cases
28 shall be sufficiently in advance of May 31 to ensure
29 that the ~~arbitrators'~~ arbitrator's decision can be
30 reasonably made ~~before~~ by May 31.

31 b. If the public employer is a community college,
32 ~~the following apply:~~

33 ~~(1) The negotiation of a proposed collective~~
34 ~~bargaining agreement shall be complete not later than~~
35 ~~May 31 of the year when the agreement is to become~~
36 ~~effective, absent the existence then, in the absence~~
37 ~~of an impasse agreement negotiated pursuant to section~~
38 ~~20.19 which provides for a different completion date,~~
39 ~~public employees represented by a certified employee~~
40 ~~organization who are employed by a public employer~~
41 ~~which is a community college shall complete the~~
42 ~~negotiation of a proposed collective bargaining~~
43 ~~agreement not later than May 31 of the year when the~~
44 ~~agreement is to become effective. The board shall~~
45 ~~adopt rules providing~~ provide, by rule, for a date on
46 which impasse items in such cases must be submitted to
47 binding arbitration and for such other procedures as
48 deemed necessary to provide for the completion of
49 negotiations of proposed collective bargaining
50 agreements not later than May 31. The date selected

1 for the mandatory submission of impasse items to
2 binding arbitration in such cases shall be
3 sufficiently in advance of May 31 to ensure that the
4 ~~arbitrators'~~ arbitrator's decision can be reasonably
5 made by May 31.

6 ~~(2) Notwithstanding the provisions of subparagraph~~
7 ~~(1), the May 31 deadline may be waived by mutual~~
8 ~~agreement of the parties to the collective bargaining~~
9 ~~agreement negotiations.~~

10 Sec. _____. Section 20.18, unnumbered paragraph 1,
11 Code 2003, is amended to read as follows:

12 An agreement with an employee organization which is
13 the exclusive representative of public employees in an
14 appropriate unit may provide procedures for the
15 consideration of public employee and employee
16 organization grievances ~~and of disputes~~ over the
17 interpretation and application of agreements.
18 Negotiated procedures may provide for binding
19 arbitration of public employee and employee
20 organization grievances ~~and of disputes~~ over the
21 interpretation and application of existing agreements.
22 An arbitrator's decision on a grievance may not change
23 or amend the terms, conditions or applications of the
24 collective bargaining agreement. Such procedures
25 shall provide for the invoking of arbitration only
26 with the approval of the employee organization, and in
27 the case of an employee grievance, only with the
28 approval of the public employee. The costs of
29 arbitration shall be shared equally by the parties.

30 Sec. _____. Section 20.19, Code 2003, is amended by
31 adding the following new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. Parties who by agreement
33 are utilizing a cooperative alternative bargaining
34 process shall, at the outset of such process, agree
35 upon a method and schedule for the completion of
36 impasse procedures should they fail to reach a
37 collective bargaining agreement through the use of
38 such alternative process."

39 7. Page 2, by inserting after line 32 the
40 following:

41 "Sec. _____. Section 20.22, subsections 1, 2, and 3,
42 Code 2003, are amended to read as follows:

43 1. If an impasse persists after the fact-finder's
44 findings of fact and recommendations are made public
45 by the ~~fact-finder board~~, the parties may continue to
46 negotiate or, the board shall have the power, upon
47 request of either party, to arrange for arbitration,
48 which shall be binding. The request for arbitration
49 shall be in writing and a copy of the request shall be
50 served upon the other party.

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

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

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

28 Sec. _____. Section 20.22, subsections 4, 5, and 6,
29 Code 2003, are amended by striking the subsections and
30 inserting in lieu thereof the following:

31 4. Upon the filing of the request for arbitration,
32 a list of five arbitrators shall be served upon the
33 parties by the board. Within five days of service of
34 the list, the parties shall determine by lot which
35 party shall remove the first name from the list and
36 the parties shall then alternately remove names from
37 the list until the name of one person remains, who
38 shall become the arbitrator. The parties shall
39 immediately notify the board of their selection and
40 the board shall notify the arbitrator. After
41 consultation with the parties, the arbitrator shall
42 set a time and place for an arbitration hearing.

43 Sec. _____. Section 20.22, subsections 7 and 8, Code
44 2003, are amended to read as follows:

45 7. The ~~panel of arbitrators~~ arbitrator shall at no
46 time engage in an effort to mediate or otherwise
47 settle the dispute in any manner other than that
48 prescribed in this section.

49 8. From the time ~~of appointment~~ the board notifies
50 the arbitrator of the selection of the arbitrator

1 until such time as the ~~panel of arbitrators~~ makes its
2 ~~final determination~~ arbitrator's selection on each
3 impasse item is made, there shall be no discussion
4 concerning recommendations for settlement of the
5 dispute by the ~~members of the panel of arbitrators~~
6 arbitrator with parties other than those who are
7 direct parties to the dispute. ~~The panel of~~
8 ~~arbitrators may conduct formal or informal hearings to~~
9 ~~discuss offers submitted by both parties."~~

10 8. Page 2, line 36, by striking the words "panel
11 of arbitrators" and inserting the following:
12 "arbitrator".

13 9. Page 2, by inserting after line 38 the
14 following:

15 "Sec. ____ . Section 20.22, subsections 10, 11, 12,
16 and 13, Code 2003, are amended to read as follows:

17 10. ~~The chairperson of the panel of arbitrators~~
18 arbitrator may ~~hold hearings and~~ administer oaths
19 examine witnesses and documents, take testimony and
20 receive evidence, and issue subpoenas to compel the
21 attendance of witnesses and the production of records,
22 ~~and delegate such powers to other members of the panel~~
23 ~~of arbitrators.~~ ~~The chairperson of the panel of~~
24 arbitrators arbitrator may petition the district court
25 at the seat of government or of the county in which
26 ~~any~~ the hearing is held to enforce the order of the
27 ~~chairperson~~ arbitrator compelling the attendance of
28 witnesses and the production of records.

29 11. ~~A majority of the panel of arbitrators~~ ~~The~~
30 arbitrator shall select within fifteen days after ~~its~~
31 ~~first meeting~~ the hearing the most reasonable offer,
32 in ~~its~~ the arbitrator's judgment, of the final offers
33 on each impasse item submitted by the parties, or the
34 recommendations of the fact-finder on each impasse
35 item.

36 12. The selections by the ~~panel of arbitrators~~
37 arbitrator and items agreed upon by the public
38 employer and the employee organization, shall be
39 deemed to be the collective bargaining agreement
40 between the parties.

41 13. The determination of the ~~panel of arbitrators~~
42 ~~shall be by majority vote and~~ arbitrator shall be
43 final and binding subject to the provisions of section
44 20.17, subsection 6. ~~The panel of arbitrators~~
45 arbitrator shall give written explanation for ~~its~~
46 ~~selection~~ the arbitrator's selections and inform the
47 parties of ~~its~~ the decision.

48 Sec. ____ . Section 20.24, Code 2003, is amended to
49 read as follows:

50 20.24 NOTICE AND SERVICE.

S-3095

Page 10

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

13 Sec. ____ . Section 20.30, Code 2003, is repealed."

14 10. By renumbering as necessary.

By NEAL SCHUERER
WILLIAM A. DOTZLER

S-3095 FILED MARCH 26, 2003

ADOPTED 3/26/03

SENATE FILE 313

S-3098

1 Amend the amendment, S-3085, to Senate File 313 as
2 follows:

3 1. Page 1, line 24, by striking the word
4 "private" and inserting the following: "public".

5 2. Page 1, line 25, by striking the words "and
6 other public".

7 3. Page 1, by striking lines 37 through 44, and
8 inserting the following:

9 "5. The power of the public employer to levy taxes
10 and appropriate funds, both within its statutory
11 limitations, for the conduct of its operations."

12 4. Page 1, lines 48 and 49, by striking the words
13 "the general economic condition of the state" and
14 inserting the following: "its authority as described
15 in subsection 5".

16 5. Page 2, by striking lines 7 through 8, and
17 inserting the following: "spending or budget".

18 6. Page 2, line 28, by inserting after the word
19 "consideration" the following: ", in addition to any
20 other relevant factors,".

By MIKE CONNOLLY

S-3098 FILED MARCH 26, 2003

LOST 3/26/03

SENATE FILE 313
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SSB 1118)

(AS AMENDED AND PASSED BY THE SENATE MARCH 26, 2003)

ALL New Language by the Senate

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

A BILL FOR

1 An Act concerning public employee collective bargaining.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 313

H-1338

- 1 Amend the amendment, H-1326, to Senate File 313, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 3, by striking lines 27 through 29 and
5 inserting the following:
6 "d. The power of the public employer to levy
7 and appropriate funds for the conduct of its
8 operations.
9 e. The ability of the public employer to".
10 2. Page 3, line 37, by striking the letter "e.",
11 and inserting the following: "f."
12 3. Page 3, line 42, by striking the letter "f.",
13 and inserting the following: "g."
14 4. By renumbering as necessary.

By WISE of Lee

H-1338 FILED APRIL 15, 2003

S.F. 313

1 Section 1. Section 20.1, subsection 7, Code 2003, is
2 amended to read as follows:

3 7. ~~Assisting-the-attorney-general-in-the-preparation-of~~
4 Preparing legal briefs and ~~the-presentation-of~~ presenting oral
5 arguments in the district court, the court of appeals, and the
6 supreme court in cases affecting the board.

7 Sec. 2. Section 20.1, Code 2003, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 8. Providing mediators to assist in the
10 resolution of grievances arising under collective bargaining
11 and providing training and facilitation for cooperative
12 alternative bargaining and dispute resolution processes at the
13 discretion of the board and upon joint request of the parties
14 involved.

15 Sec. 3. Section 20.3, subsection 4, Code 2003, is amended
16 to read as follows:

17 4. "Employee organization" means an organization of any
18 kind in which public employees participate and which exists
19 for the primary purpose of representing public employees in
20 their employment relations.

21 Sec. 4. Section 20.5, subsection 5, Code 2003, is amended
22 to read as follows:

23 5. Members of the board and other employees of the board
24 shall be allowed their actual and necessary expenses incurred
25 in the performance of their duties. All expenses and salaries
26 shall be paid from appropriations for such purposes and the
27 board shall be subject to the budget requirements of chapter
28 8.

29 Sec. 5. Section 20.6, subsection 2, Code 2003, is amended
30 to read as follows:

31 2. Collect, for public employers other than the state and
32 its boards, commissions, departments, and agencies, data and
33 conduct studies relating to total compensation, including
34 wages, hours, benefits and other terms and conditions of
35 public employment and make the same available to any

1 interested person or organization.

2 Sec. 6. Section 20.6, subsection 3, Code 2003, is amended
3 to read as follows:

4 3. Establish minimum qualifications for arbitrators, fact-
5 finders, and mediators, establish procedures for appointing,
6 maintaining, and removing from a list persons representative
7 of the public to be available to serve as arbitrators, fact-
8 finders, and mediators, and establish compensation rates for
9 arbitrators, fact-finders, and mediators.

10 Sec. 7. Section 20.10, subsection 2, paragraph f, Code
11 2003, is amended to read as follows:

12 f. Deny the rights accompanying certification ~~or-exclusive~~
13 ~~recognition~~ granted in this chapter.

14 Sec. 8. Section 20.10, subsection 3, paragraph b, Code
15 2003, is amended to read as follows:

16 b. Interfere, restrain, or coerce a public employer with
17 respect to rights granted in this chapter or with respect to
18 selecting a representative for the purposes of negotiating
19 collectively ~~on~~ or the adjustment of grievances.

20 Sec. 9. Section 20.10, subsection 3, paragraph f, Code
21 2003, is amended to read as follows:

22 f. Violate the provisions of sections 732.1 to 732.3,
23 which are hereby made applicable to public employers, public
24 employees and ~~public~~ employee organizations.

25 Sec. 10. Section 20.10, subsection 4, Code 2003, is
26 amended to read as follows:

27 4. The expressing of any views, argument or opinion, or
28 the dissemination thereof, whether orally or in written,
29 printed, graphic, or visual form, shall not constitute or be
30 evidence of any ~~unfair-labor~~ prohibited practice under any of
31 the provisions of this chapter, if such expression contains no
32 threat of reprisal or force or promise of benefit.

33 Sec. 11. Section 20.11, subsections 1, 2, and 3, Code
34 2003, are amended to read as follows:

35 1. Proceedings against a party alleging a violation of

1 section 20.10, shall be commenced by filing a complaint with
2 the board within ninety days of the alleged violation causing
3 a copy of the complaint to be served upon the accused party in
4 ~~the-manner-of-an-original-notice-as-provided-in-this-chapter.~~
5 The accused party shall have ten days within which to file a
6 written answer to the complaint. However, the board may
7 conduct a preliminary investigation of the alleged violation,
8 and if the board determines that the complaint has no basis in
9 fact, the board may dismiss the complaint. The board shall
10 promptly thereafter set a time and place for hearing in the
11 county where the alleged violation occurred, provided,
12 however, that the presiding officer may conduct the hearing
13 through the use of technology from a remote location. The
14 parties shall be permitted to be represented by counsel,
15 summon witnesses, and request the board to subpoena witnesses
16 on the requester's behalf. Compliance with the technical
17 rules of pleading and evidence shall not be required.

18 2. The board may designate one of its members, an
19 administrative law judge, or any other qualified person
20 employed by the board to conduct serve as the presiding
21 officer at the hearing. The ~~administrative-law-judge~~
22 presiding officer has the powers as may be exercised by the
23 board for conducting the hearing and shall follow the
24 procedures adopted by the board for conducting the hearing.
25 The proposed decision of the ~~administrative-law-judge~~
26 presiding officer may be appealed to the board ~~and-the-board~~
27 ~~may-hear-the-case-de-novo-or-upon-the-record-as-submitted~~
28 ~~before-the-administrative-law-judge,-utilizing-procedures~~
29 ~~governing-appeals-to-the-district-court-in-this-section-so-far~~
30 as-applicable, or reviewed on motion of the board, in
31 accordance with the provisions of chapter 17A.

32 3. The board shall appoint a certified shorthand reporter
33 to report the proceedings and the board shall fix the
34 reasonable amount of compensation for such service, and for
35 any transcript requested by the board, which amount amounts

1 shall be taxed as other costs.

2 Sec. 12. Section 20.13, subsections 2 and 3, Code 2003,
3 are amended to read as follows:

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

15 3. Appeals from such order shall be governed by ~~appeal~~
16 ~~provisions provided in section 20.11~~ the provisions of chapter
17 17A.

18 Sec. 13. Section 20.14, subsection 2, paragraph a, Code
19 2003, is amended to read as follows:

20 a. The employee organization has submitted a request to a
21 public employer to bargain collectively ~~with~~ on behalf of a
22 designated group of public employees.

23 Sec. 14. Section 20.14, subsection 6, Code 2003, is
24 amended by striking the subsection.

25 Sec. 15. Section 20.15, subsections 1, 2, and 6, Code
26 2003, are amended to read as follows:

27 1. Upon the filing of a petition for certification of an
28 employee organization, the board shall submit a question to
29 the public employees at an election in ~~an~~ the appropriate
30 bargaining unit. The question on the ballot shall permit the
31 public employees to vote for no bargaining representation or
32 for any employee organization which has petitioned for
33 certification or which has presented proof satisfactory to the
34 board of support of ten percent or more of the public
35 employees in the appropriate unit.

1 2. If a majority of the votes cast on the question is for
2 no bargaining representation, the public employees in the
3 bargaining unit shall not be represented by an employee
4 organization. If a majority of the votes cast on the question
5 is for a listed employee organization, then the that employee
6 organization shall represent the public employees in an
7 appropriate the bargaining unit.

8 6. A petition for certification as an exclusive bargaining
9 representative, or a petition for decertification of a
10 certified bargaining representative, shall not be considered
11 by the board for a period of one year from the date of the
12 certification or noncertification of an employee organization
13 as an exclusive bargaining representative or. The board shall
14 also not consider a petition for decertification of an
15 exclusive bargaining representative during the duration of a
16 collective bargaining agreement which, for purposes of this
17 section, shall be deemed not to exceed two years. A
18 collective bargaining agreement with the state, its boards,
19 commissions, departments, and agencies shall be for two years
20 and the provisions of a collective bargaining agreement except
21 agreements-agreed-to-or-tentatively-agreed-to-prior-to-July-17
22 1977, or arbitrators' arbitrator's award affecting state
23 employees shall not provide for renegotiations which would
24 require the refinancing of salary and fringe benefits for the
25 second year of the term of the agreement, except as provided
26 in section 20.17, subsection 6, and the effective date of any
27 such agreement shall be July 1 of odd-numbered years, provided
28 that if an exclusive bargaining representative is certified on
29 a date which will prevent the negotiation of a collective
30 bargaining agreement prior to July 1 of odd-numbered years for
31 a period of two years, the certified collective bargaining
32 representative may negotiate a one-year contract with a public
33 employer which shall be effective from July 1 of the even-
34 numbered year to July 1 of the succeeding odd-numbered year
35 when new contracts shall become effective. However, if a

1 petition for decertification is filed during the duration of a
2 collective bargaining agreement, the board shall award an
3 election under this section not more than one hundred eighty
4 days nor less than one hundred fifty days prior to the
5 expiration of the collective bargaining agreement. If an
6 employee organization is decertified, the board may receive
7 petitions under section 20.14, provided that no such petition
8 and no election conducted pursuant to such petition within one
9 year from decertification shall include as a party the
10 decertified employee organization.

11 Sec. 16. NEW SECTION. 20.16A BARGAINING FACTORS.

12 The public employer and the certified employee organization
13 shall consider, in addition to any other relevant factors, the
14 following bargaining factors in negotiating a collective
15 bargaining agreement under this chapter:

16 1. Past collective bargaining contracts between the
17 parties including the bargaining that led up to such
18 contracts.

19 2. Comparison of the total compensation, including wages,
20 hours, benefits, and conditions of employment of the involved
21 public employees with those of private sector employees, based
22 upon the employment and wages annual averages report issued by
23 the United States department of labor, bureau of labor
24 statistics, and other public employees doing comparable work,
25 giving consideration to factors peculiar to the area and the
26 classifications involved.

27 3. Consideration of the economic cost of each item of a
28 proposed collective bargaining agreement and the relationship
29 of the cost of each item to the total economic cost of a
30 proposed collective bargaining agreement.

31 4. The interests and welfare of the public and the effect
32 on the public employer of financing economic adjustments in a
33 collective bargaining agreement on the normal standard of
34 services.

35 5. The ability of the public employer to finance economic

1 adjustments; provided, however, that the employer's ability to
2 finance economic adjustments shall not be predicated on the
3 premise that the employer may increase or impose new taxes,
4 fees, or charges, use funds collected and otherwise dedicated
5 by law for a special or restricted purpose, or develop other
6 sources of revenue.

7 6. The present and anticipated future economic conditions
8 that may impact the financing of economic adjustments,
9 including consideration of the public employer's financial
10 condition and the general economic condition of the state.

11 Sec. 17. Section 20.17, subsection 3, Code 2003, is
12 amended to read as follows:

13 3. Negotiating sessions, strategy meetings of public
14 employers ~~or-employee-organizations~~, mediation and the
15 deliberative process of ~~arbitrators~~ an arbitrator shall be
16 exempt from the provisions of chapter 21. However, the
17 employee organization shall present its initial bargaining
18 position to the public employer at the first bargaining
19 session. The public employer shall present its initial
20 bargaining position to the employee organization at the second
21 bargaining session, which shall be held no later than two
22 weeks following the first bargaining session. Both sessions
23 shall be open to the public and subject to the provisions of
24 chapter 21. Parties who by agreement are utilizing a
25 cooperative alternative bargaining process may exchange their
26 respective initial interest statements in lieu of initial
27 bargaining positions at these open sessions and shall make
28 minutes or summaries of subsequent sessions available to the
29 public. Hearings conducted by ~~arbitrators~~ an arbitrator shall
30 be open to the public.

31 Sec. 18. Section 20.17, subsection 6, Code 2003, is
32 amended to read as follows:

33 6. No collective bargaining agreement or ~~arbitrators~~¹
34 arbitrator's decision shall be valid or enforceable if its
35 implementation would be inconsistent with any statutory

1 limitation on the public employer's funds, spending or budget,
2 which includes consideration of the bargaining factors
3 enumerated in section 20.16A, or would substantially impair or
4 limit the performance of any statutory duty by the public
5 employer. A collective bargaining agreement or ~~arbitrators~~⁺
6 arbitrator's award may provide for benefits conditional upon
7 specified funds to be obtained by the public employer, but the
8 agreement shall provide either for automatic reduction of such
9 conditional benefits or for additional bargaining if the funds
10 are not obtained or if a lesser amount is obtained.

11 Sec. 19. Section 20.17, subsection 10, Code 2003, is
12 amended to read as follows:

13 10. The negotiation of a proposed collective bargaining
14 agreement by representatives of a state public employer and a
15 state employee organization shall be complete not later than
16 March 15 of the year when the agreement is to become
17 effective. The board shall provide, by rule, a date on which
18 any impasse item must be submitted to binding arbitration and
19 for such other procedures as deemed necessary to provide for
20 the completion of negotiations of proposed state collective
21 bargaining agreements not later than March 15. The date
22 selected for the mandatory submission of impasse items to
23 binding arbitration shall be sufficiently in advance of March
24 15 to insure that the ~~arbitrators~~⁺ arbitrator's decision can
25 be reasonably made before March 15.

26 Sec. 20. Section 20.17, subsection 11, Code 2003, is
27 amended to read as follows:

28 11. a. In the absence of an impasse agreement negotiated
29 pursuant to section 20.19 which provides for a different
30 completion date, public employees represented by a certified
31 employee organization who are teachers licensed under chapter
32 272 and who are employed by a public employer which is a
33 school district or area education agency shall complete the
34 negotiation of a proposed collective bargaining agreement not
35 later than May 31 of the year when the agreement is to become

1 effective. The board shall provide, by rule, a date on which
2 impasse items in such cases must be submitted to binding
3 arbitration and for such other procedures as deemed necessary
4 to provide for the completion of negotiations of proposed
5 collective bargaining agreements not later than May 31. The
6 date selected for the mandatory submission of impasse items to
7 binding arbitration in such cases shall be sufficiently in
8 advance of May 31 to ensure that the arbitrators' arbitrator's
9 decision can be reasonably made before by May 31.

10 b. If the public employer is a community college, the
11 ~~following apply:~~

12 ~~(1)--The negotiation of a proposed collective bargaining~~
13 ~~agreement shall be complete not later than May 31 of the year~~
14 ~~when the agreement is to become effective, absent the~~
15 ~~existence then, in the absence of an impasse agreement~~
16 negotiated pursuant to section 20.19 which provides for a
17 different completion date, public employees represented by a
18 certified employee organization who are employed by a public
19 employer which is a community college shall complete the
20 negotiation of a proposed collective bargaining agreement not
21 later than May 31 of the year when the agreement is to become
22 effective. The board shall ~~adopt rules providing~~ provide, by
23 rule, for a date on which impasse items in such cases must be
24 submitted to binding arbitration and for such other procedures
25 as deemed necessary to provide for the completion of
26 negotiations of proposed collective bargaining agreements not
27 later than May 31. The date selected for the mandatory
28 submission of impasse items to binding arbitration in such
29 cases shall be sufficiently in advance of May 31 to ensure
30 that the arbitrators' arbitrator's decision can be reasonably
31 made by May 31.

32 ~~(2)--Notwithstanding the provisions of subparagraph (1),~~
33 ~~the May 31 deadline may be waived by mutual agreement of the~~
34 ~~parties to the collective bargaining agreement negotiations.~~

35 Sec. 21. Section 20.18, unnumbered paragraph 1, Code 2003,

1 is amended to read as follows:

2 An agreement with an employee organization which is the
3 exclusive representative of public employees in an appropriate
4 unit may provide procedures for the consideration of public
5 employee and employee organization grievances ~~and-of-disputes~~
6 over the interpretation and application of agreements.

7 Negotiated procedures may provide for binding arbitration of
8 public employee and employee organization grievances ~~and-of~~
9 ~~disputes~~ over the interpretation and application of existing
10 agreements. An arbitrator's decision on a grievance may not
11 change or amend the terms, conditions or applications of the
12 collective bargaining agreement. Such procedures shall
13 provide for the invoking of arbitration only with the approval
14 of the employee organization, and in the case of an employee
15 grievance, only with the approval of the public employee. The
16 costs of arbitration shall be shared equally by the parties.

17 Sec. 22. Section 20.19, Code 2003, is amended by adding
18 the following new unnumbered paragraph:

19 NEW UNNUMBERED PARAGRAPH. Parties who by agreement are
20 utilizing a cooperative alternative bargaining process shall,
21 at the outset of such process, agree upon a method and
22 schedule for the completion of impasse procedures should they
23 fail to reach a collective bargaining agreement through the
24 use of such alternative process.

25 Sec. 23. Section 20.21, unnumbered paragraph 1, Code 2003,
26 is amended to read as follows:

27 If the impasse persists ten days after the mediator has
28 been appointed, the board shall appoint a fact-finder
29 representative of the public, from a list of qualified persons
30 maintained by the board. The fact-finder shall conduct a
31 hearing, may administer oaths, and may request the board to
32 issue subpoenas. The fact-finder shall make written findings
33 of facts and recommendations for resolution of the dispute,
34 taking into consideration the bargaining factors enumerated in
35 section 20.16A, and, not later than fifteen days from the day

1 of appointment, shall serve such findings on the public
2 employer and the certified employee organization.

3 Sec. 24. Section 20.22, subsections 1, 2, and 3, Code
4 2003, are amended to read as follows:

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

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

21 ~~As-an-alternative-procedure,-the-two-parties-may-agree-to~~
22 ~~submit-the-dispute-to-a-single-arbitrator.--If-the-parties~~
23 ~~cannot-agree-on-the-arbitrator-within-four-days,-the-selection~~
24 ~~shall-be-made-pursuant-to-subsection-5-~~ The full costs of
25 arbitration under this provision section shall be shared
26 equally by the parties to the dispute.

27 3. The submission of the impasse items to the arbitrators
28 arbitrator shall be limited to those issues that had been
29 considered by the fact-finder and upon which the parties have
30 not reached agreement. With respect to each such item, the
31 ~~arbitration-board~~ arbitrator's award shall be restricted to
32 the final offers on each impasse item submitted by the parties
33 to the ~~arbitration-board~~ arbitrator or to the recommendation
34 of the fact-finder on each impasse item.

35 Sec. 25. Section 20.22, subsections 4, 5, and 6, Code

1 2003, are amended by striking the subsections and inserting in
2 lieu thereof the following:

3 4. Upon the filing of the request for arbitration, a list
4 of five arbitrators shall be served upon the parties by the
5 board. Within five days of service of the list, the parties
6 shall determine by lot which party shall remove the first name
7 from the list and the parties shall then alternately remove
8 names from the list until the name of one person remains, who
9 shall become the arbitrator. The parties shall immediately
10 notify the board of their selection and the board shall notify
11 the arbitrator. After consultation with the parties, the
12 arbitrator shall set a time and place for an arbitration
13 hearing.

14 Sec. 26. Section 20.22, subsections 7 and 8, Code 2003,
15 are amended to read as follows:

16 7. The ~~panel-of-arbitrators~~ arbitrator shall at no time
17 engage in an effort to mediate or otherwise settle the dispute
18 in any manner other than that prescribed in this section.

19 8. From the time ~~of-appointment~~ the board notifies the
20 arbitrator of the selection of the arbitrator until such time
21 as the ~~panel-of-arbitrators-makes-its-final-determination~~
22 arbitrator's selection on each impasse item is made, there
23 shall be no discussion concerning recommendations for
24 settlement of the dispute by the ~~members-of-the-panel-of~~
25 arbitrators arbitrator with parties other than those who are
26 direct parties to the dispute. ~~The-panel-of-arbitrators-may~~
27 ~~conduct-formal-or-informal-hearings-to-discuss-offers~~
28 ~~submitted-by-both-parties.~~

29 Sec. 27. Section 20.22, subsection 9, Code 2003, is
30 amended by striking the subsection and inserting in lieu
31 thereof the following:

32 9. The arbitrator shall consider, in addition to any other
33 relevant factors, the bargaining factors enumerated in section
34 20.16A.

35 Sec. 28. Section 20.22, subsections 10, 11, 12, and 13,

1 Code 2003, are amended to read as follows:

2 10. ~~The chairperson-of-the-panel-of-arbitrators~~ arbitrator
3 may ~~hold-hearings-and~~ administer oaths, examine witnesses and
4 documents, take testimony and receive evidence, and issue
5 subpoenas to compel the attendance of witnesses and the
6 production of records, ~~and-delegate-such-powers-to-other~~
7 ~~members-of-the-panel-of-arbitrators~~. The chairperson-of-the
8 ~~panel-of-arbitrators~~ arbitrator may petition the district
9 court at the seat of government or of the county in which any
10 the hearing is held to enforce the order of the chairperson
11 arbitrator compelling the attendance of witnesses and the
12 production of records.

13 11. ~~A-majority-of-the-panel-of-arbitrators~~ The arbitrator
14 shall select within fifteen days after ~~its-first-meeting~~ the
15 hearing the most reasonable offer, in ~~its~~ the arbitrator's
16 judgment, of the final offers on each impasse item submitted
17 by the parties, or the recommendations of the fact-finder on
18 each impasse item.

19 12. The selections by the ~~panel-of-arbitrators~~ arbitrator
20 and items agreed upon by the public employer and the employee
21 organization, shall be deemed to be the collective bargaining
22 agreement between the parties.

23 13. The determination of the ~~panel-of-arbitrators-shall-be~~
24 ~~by-majority-vote-and~~ arbitrator shall be final and binding
25 subject to the provisions of section 20.17, subsection 6. The
26 ~~panel-of-arbitrators~~ arbitrator shall give written explanation
27 for ~~its-selection~~ the arbitrator's selections and inform the
28 parties of ~~its~~ the decision.

29 Sec. 29. Section 20.24, Code 2003, is amended to read as
30 follows:

31 20.24 NOTICE AND SERVICE.

32 Any notice required under the provisions of this chapter
33 shall be in writing, but service thereof shall be sufficient
34 if mailed by restricted certified mail, return receipt
35 requested, addressed to the last known address of the parties

1 intended recipient, unless otherwise provided in this chapter.
2 Refusal of restricted certified mail by any party shall be
3 considered service. ~~Prescribed~~ Unless otherwise provided in
4 this chapter, time periods shall commence from the date of the
5 receipt of the notice. Any party may at any time execute and
6 deliver an acceptance of service in lieu of mailed notice.

7 Sec. 30. Section 20.30, Code 2003, is repealed.

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Description

Senate File 313, as amended and passed by the Senate, requires an arbitrator to compare the total compensation, including benefits, of the employees subject to the arbitration to private sector and public employees as reported by the United State Department of Labor, Bureau of Labor Statistics.

The Bill requires the arbitrator to take into consideration the impact of financing the provisions of the collective bargaining agreement on the public employer.

The Bill also eliminates the requirement that the arbitrator considers the power of the public employer to levy taxes and appropriate funds.

Assumptions

1. The Bill eliminates the requirement that the arbitrator consider the employer's ability to levy taxes.
2. The arbitrator would still be required to consider the interests and welfare of the public, the ability of the public employer to finance economic adjustments, and the effect of such adjustments on the normal standard of services.
3. According to the Department of Management, each 1.0% increase in salaries for all State employees is estimated to cost the General Fund \$13.0 million for FY 2004.
4. The Central American Federation of State, County and Municipal Employees (AFSCME) has agreed to a two-year contract covering FY 2004 and FY 2005. The Central American Federation of State, County and Municipal Employees (AFSCME) initially asked for an across-the-board increase of 5.0% and a 5.0% step increase for eligible employees effective July 1, 2003, and July 1, 2004, as well as changes relating to health care. The State responded with an offer of an across-the-board increase of 1.0% and a 2.5% step increase for eligible employees effective July 1, 2003, and July 1, 2004, as well as changes relating to health care. An agreement was reached in February 2003 that provides for the following:
 - a. An across-the board increase of 2.0% effective July 1, 2003, and January 1, 2005 with a 4.5% step increase for eligible employees and a 2.0% increase in the pay plan maximums effective January 2005.
 - b. The State will increase the current 80.0% contribution on the cost of a family health plan to 82.0% effective January 2004 and to 85.0% effective January 2005.
 - c. The State will increase the maximum match on Deferred Compensation contributions from \$25 to \$50, effective January 2005.
 - d. The Department of Management estimates the cost of the AFSCME agreement from all funds to be \$28.5 million for FY 2004 and \$45.9 million for FY 2005.

Fiscal Impact

Due to insufficient information, the fiscal impact of SF 313, as amended and passed by the Senate, cannot be determined.

Sources

Iowa Department of Management
Iowa Public Employment Relations Board (PERB)
Iowa Department of Personnel

/s/ Dennis C Prouty

April 1, 2003

SENATE FILE 313

H-1326

1 Amend Senate File 313, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 10, by inserting after the word
4 "bargaining" the following: "agreements".

5 2. Page 1, line 33, by striking the words "total
6 compensation, including".

7 3. Page 1, line 35, by inserting after the word
8 "employment" the following: ", including such
9 information filed with the board pursuant to section
10 20.29,".

11 4. Page 3, line 2, by striking the word
12 "causing", and inserting the following: "causing.
13 The complaining party shall cause".

14 5. By striking page 6, line 11, through page 7,
15 line 10.

16 6. Page 7, lines 27 through 29, by striking the
17 words "and shall make minutes or summaries of
18 subsequent sessions available to the public".

19 7. Page 8, line 2, by striking the word
20 "bargaining", and inserting the following:
21 "arbitration".

22 8. Page 8, line 3, by striking the figure
23 "20.16A", and inserting the following: "20.22,
24 subsection 9".

25 9. Page 9, by striking line 10 and inserting the
26 following:

27 "b. If the public employer is a community college,
28 the".

29 10. Page 9, line 15, by striking the words "then,
30 in", and inserting the following: "In".

31 11. Page 10, by inserting after line 24 the
32 following:

33 "Sec. _____. Section 20.20, Code 2003, is amended to
34 read as follows:

35 20.20 MEDIATION.

36 In the absence of an impasse agreement negotiated
37 pursuant to section 20.19 or the failure of either
38 party to utilize its procedures, one hundred twenty
39 days prior to the certified budget submission date, or
40 one hundred twenty days prior to May 31 of the year
41 when the collective bargaining agreement is to become
42 effective if public employees represented by the
43 employee organization are teachers licensed under
44 chapter 272 and the public employer is a school
45 district or area education agency, the board shall,
46 upon the request of either party, appoint an impartial
47 and disinterested person to act as mediator. If the
48 public employer is a community college, and in the
49 absence of an impasse agreement negotiated pursuant to
50 section 20.19 or the failure of either party to

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1 utilize its procedures, one hundred twenty days prior
2 to May 31 of the year when the collective bargaining
3 agreement is to become effective, the board, upon the
4 request of either party, shall appoint an impartial
5 and disinterested person to act as mediator. It shall
6 be the function of the mediator to bring to the
7 attention of the parties the arbitration factors
8 enumerated in section 20.22, subsection 9, and to
9 bring the parties together to effectuate a settlement
10 of the dispute, ~~but~~. However, the mediator may not
11 compel the parties to agree."

12 12. Page 10, line 25, by striking the word and
13 figure "paragraph 1", and inserting the following:
14 "paragraphs 1 and 2".

15 13. Page 10, line 26, by striking the word "is",
16 and inserting the following: "are".

17 14. Page 10, lines 31 and 32, by striking the
18 words "request the board to issue subpoenas." and
19 inserting the following: "~~request the board to issue~~
20 subpoenas to compel the attendance of witnesses and
21 the production of records. The fact-finder may
22 petition the district court at the seat of government
23 or of the county in which the hearing is held to
24 enforce the subpoena."

25 15. Page 10, line 33, by striking the words "the
26 dispute", and inserting the following: "~~the dispute~~
27 each impasse item".

28 16. Page 10, line 34, by striking the word
29 "bargaining", and inserting the following:
30 "arbitration".

31 17. Page 10, line 35, by striking the figure
32 "20.16A", and inserting the following: "20.22,
33 subsection 9".

34 18. Page 10, line 35, through page 11, line 1, by
35 striking the words "day of appointment" and inserting
36 the following: "~~day of appointment~~ date of the
37 hearing".

38 19. Page 11, line 1, by inserting after the word
39 "findings" the following: "and recommendations".

40 20. Page 11, by inserting after line 2 the
41 following:

42 "The Upon receipt of the fact-finder's findings and
43 recommendations, the public employer and the certified
44 employee organization shall immediately accept the
45 fact-finder's ~~recommendation~~ recommendations in their
46 entirety or shall within five days submit the fact-
47 finder's recommendations to the governing body of the
48 public employer and members of the certified employee
49 organization for such acceptance or rejection. If the
50 dispute is not resolved by both parties' acceptance of

1 the fact-finder's recommendations, the parties may
2 continue to negotiate and resolve any remaining
3 impasse items. If the dispute continues ten days
4 after the ~~report is submitted~~ fact-finder's findings
5 and recommendations are served, the ~~report~~ findings
6 and recommendations shall be made public by the
7 board."

8 21. Page 11, line 7, by striking the word "or,"
9 and inserting the following: "~~or,~~ and".

10 22. Page 12, by striking lines 30 through 34 and
11 inserting the following: "amended to read as follows:

12 9. ~~The panel of arbitrators~~ arbitrator shall
13 consider, in addition to any other relevant factors,
14 the following factors:

15 a. Past collective bargaining contracts between
16 the parties including the bargaining that led up to
17 such contracts.

18 b. Comparison of wages, hours and conditions of
19 employment of the involved public employees with those
20 of other public employees doing comparable work,
21 giving consideration to factors peculiar to the area
22 and the classifications involved.

23 c. The interests and welfare of the public, the
24 ability of the public employer to finance economic
25 adjustments and the effect of such adjustments on the
26 normal standard of services.

27 ~~d. The power of the public employer to levy taxes~~
28 ~~and appropriate funds for the conduct of its~~
29 ~~operations. The ability of the public employer to~~
30 finance economic adjustments; provided, however, that
31 the employer's ability to finance economic adjustments
32 shall not be predicated on the premise that the
33 employer may increase or impose new taxes, fees, or
34 charges, use funds collected and otherwise dedicated
35 by law for a restricted purpose, or develop other
36 sources of revenue.

37 e. The present and anticipated future economic
38 conditions that may impact the financing of economic
39 adjustments, including consideration of the public
40 employer's financial condition and the general
41 economic condition of the state.

42 f. Consideration of the economic cost of each item
43 of a proposed collective bargaining agreement and the
44 relationship of the cost of each item to the total
45 economic cost of a proposed collective bargaining
46 agreement."

47 23. Page 14, by inserting after line 6 the
48 following:

49 "Sec. ____ . Section 20.29, Code 2003, is amended by
50 adding the following new unnumbered paragraph:

H-1326

Page 4

1 NEW UNNUMBERED PARAGRAPH. Within ninety days of
2 the completion of a collective bargaining agreement
3 entered into pursuant to this chapter, the public
4 employer shall file two copies of the agreement with
5 the board. In addition, within the same time period,
6 the public employer and the applicable certified
7 employee organization shall file with the board,
8 either jointly or separately, a report on a form
9 prescribed by the board which shall include the number
10 of employees covered by the agreement, the estimated
11 costs of implementing the wage, benefit, and other
12 provisions of the agreement having an economic impact,
13 the estimated total cost of implementing the agreement
14 for the entire term of the agreement, and any other
15 information relating to the agreement as requested by
16 the board."

17 24. By renumbering, relettering, or redesignating
18 and correcting internal references as necessary.

By COMMITTEE ON COMMERCE, REGULATI
HANSEN of Pottawattamie, Chairp

H-1326 FILED APRIL 14, 2003

SENATE FILE 313

H-1361

1 Amend the amendment, H-1326, to Senate File 313, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

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

6 "_____. Page 1, by inserting before line 1 the
7 following:

8 "Section 1. Section 20.1, unnumbered paragraph 1,
9 Code 2003, is amended to read as follows:

10 The general assembly declares that it is the public
11 policy of the state to promote harmonious and co-
12 operative relationships between government and its
13 employees by permitting public employees to organize
14 and bargain collectively; to protect the citizens of
15 this state by assuring effective and orderly
16 operations of government in providing for their
17 health, safety, and welfare, consistent with each
18 public employer's relevant economic factors regarding
19 the present and anticipated future economic conditions
20 and the employer's ability to finance an agreement
21 under this chapter; to prohibit and prevent all
22 strikes by public employees; and to protect the rights
23 of public employees to join or refuse to join, and to
24 participate in or refuse to participate in, employee
25 organizations."

26 2. Page 1, by striking lines 19 through 24 and
27 inserting the following:

28 "_____. Page 8, lines 1 through 3, by striking the
29 words "which includes consideration of the
30 bargaining factors enumerated in section 20.16A,"."

By WATTS of Dallas
WISE of Lee

H-1361 FILED APRIL 17, 2003

SENATE FILE 313

H-1356

1 Amend the amendment, H-1326, to Senate File 313, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 3, by striking lines 33 through 36 and
5 inserting the following: "employer may increase or
6 impose new taxes."

By T. TAYLOR of Linn
WISE of Lee
CONNORS of Polk

H-1356 FILED APRIL 16, 2003

Schuerer Business & Labor Relations
Wieck
Courtney

SSB 1118
Succeeded By
CF/HF 313

SENATE FILE _____
BY (PROPOSED COMMITTEE ON BUSINESS
AND LABOR RELATIONS BILL BY
CHAIRPERSON SCHUERER)

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

A BILL FOR

1 An Act concerning public employee collective bargaining.
2 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 2003, is amended to read as follows:

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, and in-service training and other matters
12 mutually-agreed-upon. Negotiations shall also include terms
13 authorizing dues checkoff for members of the employee
14 organization and grievance procedures for resolving any
15 questions arising under the agreement, which shall be embodied
16 in a written agreement and signed by the parties. If an
17 agreement provides for dues checkoff, a member's dues may be
18 checked off only upon the member's written request and the
19 member may terminate the dues checkoff at any time by giving
20 thirty days' written notice. Such obligation to negotiate in
21 good faith does not compel either party to agree to a proposal
22 or make a concession.

23 Sec. 2. Section 20.22, subsection 4, Code 2003, is amended
24 by adding the following new paragraph:

25 NEW PARAGRAPH. e. Each arbitrator appointed shall be a
26 resident of Iowa and shall have some private sector employment
27 experience.

28 Sec. 3. Section 20.22, subsection 9, paragraph b, Code
29 2003, is amended to read as follows:

30 b. Comparison of the total compensation, including wages,
31 hours, benefits, and conditions of employment of the involved
32 public employees with those of other private sector and public
33 employees doing comparable work, giving consideration to
34 factors peculiar to the area and the classifications involved.

35 Sec. 4. Section 20.22, subsection 9, paragraph d, Code

1 2003, is amended by striking the paragraph.

2 EXPLANATION

3 This bill makes changes to the provisions governing public
4 employee collective bargaining.

5 The bill limits the scope of negotiations concerning public
6 employee collective bargaining to those items specifically
7 listed in Code section 20.9 and eliminates the ability to
8 negotiate on other items as mutually agreed upon by the public
9 employer and the employee organization.

10 The bill provides that all individuals appointed to
11 arbitrate public employee collective bargaining disputes under
12 Code section 20.22 be Iowa residents and have some previous
13 private sector employment experience.

14 The bill provides that an arbitrator shall compare the
15 total compensation, including benefits, of the employees
16 subject to the arbitration to those of both private sector and
17 public employees. The bill also eliminates, as an arbitrator
18 consideration, the power of the public employer to levy taxes
19 and appropriate funds for the conduct of its operations.

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