

**House File 678 - Introduced**

HOUSE FILE 678  
BY COMMITTEE ON GOVERNMENT  
OVERSIGHT

(SUCCESSOR TO HSB 226)

**A BILL FOR**

1 An Act relating to membership in and membership dues paid to  
2 organizations representing school boards, board members, and  
3 administrators, and to the responsibilities and duties of  
4 such organizations, and providing penalties and remedies.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 279.38, Code 2011, is amended by striking  
2 the section and inserting in lieu thereof the following:

3 **279.38 Membership in organizations — requirements.**

4 1. As used in this section:

5 *a.* "Compensation" means the same as defined in section 8F.2,  
6 subsection 2.

7 *b.* "Organization" means a local, state, regional, or  
8 national organization which relates to the functions of  
9 the board of directors of a school district or to the  
10 administrators of a school district and to which the school  
11 board pays monetary fees or annual dues in accordance with  
12 subsection 2.

13 2. *a.* The board of directors of a school district, the  
14 duly elected members of the school board, and designated  
15 administrators of school districts may join and participate in  
16 organizations, including but not limited to organizations such  
17 as the Iowa association of school boards, the urban education  
18 network, Iowa school finance information services, and the  
19 school administrators of Iowa. The school board may pay out  
20 of funds available to the school board reasonable monetary  
21 fees or annual dues for membership of the school board, or a  
22 board member or administrator, in such an organization. Such  
23 an organization that receives fees or dues for membership  
24 from a school board shall be considered a taxpayer-funded  
25 organization.

26 *b.* Each school board that pays monetary fees or annual  
27 dues to an organization shall annually report to the local  
28 community and to the department of education the amount paid  
29 in annual dues to the organization and the amount of any dues,  
30 fees, or assessments of any kind paid, and revenue or dividend  
31 payments received, for services received from the organization,  
32 and the products or services received due to membership in  
33 the organization. The information shall be submitted to the  
34 department electronically in the format specified by the  
35 department.

1 3. The financial condition and transactions of an  
2 organization shall be audited in the same manner as school  
3 corporations as provided in section 11.6. The organization  
4 shall establish an audit committee to review the financial  
5 condition and transactions of the organization and the report  
6 of examination conducted in accordance with this subsection.  
7 The auditor conducting an examination in accordance with this  
8 subsection shall have full access to the audit committee  
9 and to all of the organization's records, reports, audits,  
10 tax reports, and all other documents and papers issued or  
11 maintained by the organization.

12 4. An organization shall do all of the following:

13 a. Publish annually on its internet site, and in a report  
14 submitted annually to the department of education, the standing  
15 committees on government oversight, and the general assembly,  
16 all of the following:

17 (1) A listing of the school districts that pay fees or dues  
18 for membership in the organization and the moneys paid by each  
19 school district.

20 (2) The total revenue the organization receives from each  
21 school district resulting from the payment of monetary fees or  
22 annual dues, and the total net profit from the sale of products  
23 and services to the school district by the organization.

24 (3) An accounting, broken down by individual employee,  
25 of the total amount of moneys expended for reimbursement of  
26 expenses incurred by and compensation paid to each of the ten  
27 highest paid employees of the organization as evidenced by the  
28 tax forms submitted by the organization to the internal revenue  
29 service.

30 (4) An accounting of all moneys expended for reimbursement  
31 of expenses incurred by and compensation paid to all  
32 legislative representatives and lobbyists of the organization.

33 b. Submit to the general assembly and the standing committee  
34 on government oversight copies of all reports the organization  
35 provides to the United States department of education relating

1 to federal grants and grant amounts that the organization  
2 administers or distributes to school districts.

3 *c.* Provide education and training to the organization's  
4 board members in the fiduciary duties and legal  
5 responsibilities of members.

6 5. An organization shall not pay to an employee, officer,  
7 a member of the organization's governing board, or to a  
8 legislative representative or lobbyist of the organization, a  
9 commission, bonus, or other consideration of any type which is  
10 in addition to compensation paid and published and reported as  
11 required by subsection 4.

12 6. *a.* A person who serves as the head of an organization  
13 or otherwise serves in a supervisory capacity within the  
14 organization shall not require an employee of the organization  
15 to inform the person that the employee made a disclosure  
16 of information permitted by this subsection and shall not  
17 prohibit an employee of the organization from disclosing any  
18 information to a member of the governing board or to any  
19 public official, a law enforcement agency, a state agency, the  
20 auditor of state or an auditor conducting an examination of  
21 the organization in accordance with section 11.6, the office  
22 of the attorney general, the office of citizens' aide, or to a  
23 committee of the general assembly if the employee reasonably  
24 believes the information evidences a violation of law or rule,  
25 mismanagement, a gross abuse of funds, an abuse of authority,  
26 or a substantial and specific danger to public health or  
27 safety. However, an employee may be required to inform the  
28 person that the employee made a disclosure of information  
29 permitted by this subsection if the employee represented that  
30 the disclosure was the official position of the employee's  
31 immediate supervisor or employer.

32 *b.* A person shall not discharge an employee from or take  
33 or fail to take action regarding an employee's appointment or  
34 proposed appointment to, promotion or proposed promotion to,  
35 or any advantage in, a position administered by, or subject

1 to approval of, the person or the organization's governing  
2 board as a reprisal for a failure by that employee to inform  
3 the person that the employee made a disclosure of information  
4 permitted by this subsection, or for a disclosure of any  
5 information by that employee authorized under paragraph "a"  
6 if the employee reasonably believes the information evidences  
7 a violation of law or rule, mismanagement, a gross abuse of  
8 funds, an abuse of authority, or a substantial and specific  
9 danger to public health or safety. However, an employee may  
10 be required to inform the person that the employee made a  
11 disclosure of information permitted by this subsection if the  
12 employee represented that the disclosure was the official  
13 position of the employee's immediate supervisor or employer.

14 c. Paragraphs "a" and "b" do not apply if the disclosure of  
15 the information is prohibited by statute.

16 d. A person who violates paragraph "a" or "b" commits a  
17 simple misdemeanor.

18 e. Paragraph "b" may be enforced through a civil action.

19 (1) A person who violates paragraph "b" is liable to  
20 an aggrieved employee for affirmative relief including  
21 reinstatement, with or without back pay, or any other equitable  
22 relief the court deems appropriate, including attorney fees and  
23 costs.

24 (2) When a person commits, is committing, or proposes to  
25 commit an act in violation of paragraph "b", an injunction may  
26 be granted through an action in district court to prohibit the  
27 person from continuing such acts. The action for injunctive  
28 relief may be brought by an aggrieved employee or the attorney  
29 general.

30 f. A person shall not discharge an employee from or take  
31 or fail to take action regarding an employee's appointment or  
32 proposed appointment to, promotion or proposed promotion to,  
33 or any advantage in, a position administered by, or subject  
34 to approval of, the person or the organization's governing  
35 board as a reprisal for the employee's declining to participate

1 in contributions or donations to charities or community  
2 organizations.

3 *g.* The person and the organization's governing board  
4 shall provide procedures for notifying the organization's  
5 new employees of the provisions of this subsection and shall  
6 periodically conduct promotional campaigns to provide similar  
7 information to the organization's employees. The information  
8 shall include the toll-free telephone number of the citizens'  
9 aide.

10 7. *a.* Except as otherwise provided in paragraph "b", all  
11 meetings of the governing board of the organization shall  
12 comply with the requirements of chapter 21 and all records of  
13 the governing board and the organization shall be maintained  
14 in accordance with chapter 22.

15 *b.* The governing board of the organization may keep the  
16 following records confidential and the governing board may hold  
17 a closed session meeting to discuss the following matters:

18 (1) Personal information in confidential personnel records  
19 maintained by the governing board of the organization.

20 (2) Information related to legal matters including  
21 discussions or consultations with an attorney. Attorney  
22 billing records are not confidential records except for such  
23 records that are subject to the attorney-client privilege.

24 (3) Pricing, product, service, business strategy, or  
25 marketing information which if released, would give an  
26 advantage to competitors, vendors, or other parties and that  
27 serve no public purpose.

28 Sec. 2. REPEAL. Section 279.38A, Code 2011, is repealed.

29

EXPLANATION

30 This bill strikes Code section 279.38 and repeals Code  
31 section 279.38A, but combines much of the language of these  
32 two Code sections to modify the statutory requirements of  
33 organizations to which school boards, school board members,  
34 and school district administrators may join and pay monetary  
35 fees or dues for membership. School boards, board members, and

1 school administrators may join and participate in local, state,  
2 regional, and national organizations which directly relate  
3 to the administrator or school board functions of the school  
4 district. Such organizations include but are not limited to  
5 the Iowa association of school boards, the urban education  
6 network, Iowa school finance information services, and the  
7 school administrators of Iowa. Such an organization shall be  
8 considered a taxpayer-funded organization.

9 Each board that pays membership dues must annually report  
10 the local community and to the department of education the  
11 amount the board pays in annual dues to the organization and  
12 the amount of any fees paid, and revenue or dividend payments  
13 received, for services received from the organization, and  
14 the products or services received due to membership in the  
15 organization. The bill requires that the information be  
16 submitted to the department electronically in the format  
17 specified by the department.

18 The financial condition and transactions of the  
19 organizations shall be audited in the same manner as school  
20 districts. Under the bill, the organization must establish  
21 an audit committee to review the financial condition and  
22 transactions of the organization and the audit report. The  
23 auditor conducting the examination shall have full access to  
24 the audit committee and to all of the organization's records,  
25 reports, audits, tax reports, and all other documents and  
26 papers issued or maintained by the organization.

27 Such organizations must publish annually, in a report  
28 submitted annually to the department of education, the standing  
29 committees on government oversight, and the general assembly,  
30 a listing of the school districts and the dues paid by each  
31 school district; the total revenue the organization receives  
32 from each school district resulting from the payment of  
33 membership fees; the total net profit from the sale of products  
34 and services to the school district by the organization;  
35 the total amount of the annual compensation and expenses

1 paid to the organization's 10 highest paid employees, broken  
2 down by individual employee; and an accounting of all moneys  
3 expended for reimbursement of expenses and compensation paid to  
4 legislative representatives and lobbyists of the organization.

5 Under the bill, the organization must also provide education  
6 and training to its board members regarding their fiduciary  
7 duties and legal responsibilities.

8 The organization is prohibited from paying a commission,  
9 bonus, or other consideration to an employee, officer, board  
10 member, or to a legislative representative or lobbyist of the  
11 organization.

12 The bill prohibits the head of the organization from  
13 requiring an employee to inform the person that the employee  
14 disclosed information, and prohibits the person taking adverse  
15 employment action against an employee of the organization  
16 who discloses information about the organization to a board  
17 member, any public official, a law enforcement agency, a state  
18 agency, the auditor of state or an auditor conducting an  
19 examination in accordance with Code section 11.6, the office  
20 of the attorney general, the office of citizens' aide, or to a  
21 committee of the general assembly if the employee reasonably  
22 believes the information evidences a violation of law or rule,  
23 mismanagement, a gross abuse of funds, an abuse of authority,  
24 or a substantial or specific danger to public health or safety.  
25 The provisions do not apply if the disclosure of information is  
26 prohibited by statute. A person who violates the prohibitions  
27 commits a simple misdemeanor and may be liable to an aggrieved  
28 employee for affirmative relief. The prohibition against  
29 adverse action may be enforced through a civil action, and  
30 the employee may bring an action for injunctive relief by  
31 the district court. Adverse action against an employee for  
32 declining to participate in contributions or donations is also  
33 prohibited. The person and the organization must provide  
34 employee notification procedures relating to these prohibitions  
35 and remedies and must conduct related promotional campaigns.



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1 The organization's governing boards meetings are subject to  
2 Code chapter 21 and the governing board and the organization's  
3 records must be maintained in compliance with Code chapter 22.