

House Study Bill 226 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
GOVERNMENT OVERSIGHT BILL
BY CHAIRPERSON HAGENOW)

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 of
20 funds available to the school board reasonable monetary fees
21 or annual dues for membership of the school board, or a board
22 member or administrator, in such an organization. However, the
23 school board shall not pay monetary fees or annual dues to an
24 organization that is affiliated with or which derives revenue
25 or income from a for-profit subsidiary.

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 and the moneys paid
18 by each school district.

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

23 (3) The total amount of moneys expended for reimbursement of
24 expenses incurred by and compensation paid to the ten highest
25 paid employees of the organization as evidenced by the tax
26 forms submitted by the organization to the internal revenue
27 service.

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

31 *b.* Submit to the general assembly and the standing committee
32 on government oversight copies of all reports the organization
33 provides to the United States department of education relating
34 to federal grants and grant amounts that the organization
35 administers or distributes to school districts.

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

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

24 *b.* A person shall not discharge an employee from or take
25 or fail to take action regarding an employee's appointment or
26 proposed appointment to, promotion or proposed promotion to,
27 or any advantage in, a position administered by, or subject
28 to approval of, the person or the organization's governing
29 board as a reprisal for a failure by that employee to inform
30 the person that the employee made a disclosure of information
31 permitted by this subsection, or for a disclosure of any
32 information by that employee authorized under paragraph "a"
33 if the employee reasonably believes the information evidences
34 a violation of law or rule, mismanagement, a gross abuse of
35 funds, an abuse of authority, or a substantial and specific

1 danger to public health or safety. However, an employee may
2 be required to inform the person that the employee made a
3 disclosure of information permitted by this subsection if the
4 employee represented that the disclosure was the official
5 position of the employee's immediate supervisor or employer.

6 *c.* Paragraphs "a" and "b" do not apply if the disclosure of
7 the information is prohibited by statute.

8 *d.* A person who violates paragraph "a" or "b" commits a
9 simple misdemeanor.

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

11 (1) A person who violates paragraph "b" is liable to
12 an aggrieved employee for affirmative relief including
13 reinstatement, with or without back pay, or any other equitable
14 relief the court deems appropriate, including attorney fees and
15 costs.

16 (2) When a person commits, is committing, or proposes to
17 commit an act in violation of paragraph "b", an injunction may
18 be granted through an action in district court to prohibit the
19 person from continuing such acts. The action for injunctive
20 relief may be brought by an aggrieved employee or the attorney
21 general.

22 *f.* A person shall not discharge an employee from or take
23 or fail to take action regarding an employee's appointment or
24 proposed appointment to, promotion or proposed promotion to,
25 or any advantage in, a position administered by, or subject
26 to approval of, the person or the organization's governing
27 board as a reprisal for the employee's declining to participate
28 in contributions or donations to charities or community
29 organizations.

30 *g.* The person and the organization's governing board
31 shall provide procedures for notifying the organization's
32 new employees of the provisions of this subsection and shall
33 periodically conduct promotional campaigns to provide similar
34 information to the organization's employees. The information
35 shall include the toll-free telephone number of the citizens'

1 aide.

2 6. All meetings of the governing board of the organization
3 shall comply with the requirements of chapter 21 and all
4 records of the governing body and the organization shall be
5 maintained in accordance with chapter 22.

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

7

EXPLANATION

8 This bill strikes Code section 279.38 and repeals Code
9 section 279.38A, but combines much of the language of these
10 two Code sections to modify the statutory requirements of
11 organizations to which school boards, school board members,
12 and school district administrators may join and pay monetary
13 fees or dues for membership. School boards, board members, and
14 school administrators may join and participate in local, state,
15 regional, and national organizations which directly relate
16 to the administrator or school board functions of the school
17 district. Such organizations include but are not limited to
18 the Iowa association of school boards, the urban education
19 network, Iowa school finance information services, and the
20 school administrators of Iowa.

21 The bill prohibits school boards from paying fees or dues
22 to an organization that is affiliated with or which derives
23 revenue or income from a for-profit subsidiary.

24 Each board that pays membership dues must annually report
25 the local community and to the department of education the
26 amount the board pays in annual dues to the organization and
27 the amount of any fees paid, and revenue or dividend payments
28 received, for services received from the organization, and
29 the products or services received due to membership in the
30 organization. The bill requires that the information be
31 submitted to the department electronically in the format
32 specified by the department.

33 The financial condition and transactions of the
34 organizations shall be audited in the same manner as school
35 districts. Under the bill, the organization must establish

1 an audit committee to review the financial condition and
2 transactions of the organization and the audit report. The
3 auditor conducting the examination shall have full access to
4 the audit committee and to all of the organization's records,
5 reports, audits, tax reports, and all other documents and
6 papers issued or maintained by the organization.

7 Such organizations must publish annually, in a report
8 submitted annually to the department of education, the standing
9 committees on government oversight, and the general assembly,
10 a listing of the school districts and the dues paid by each
11 school district, the total revenue the organization receives
12 from each school district resulting from the payment of
13 membership fees and the sale of products and services to the
14 school district by the organization, the total amount of the
15 annual compensation and expenses paid to the organization's
16 10 highest paid employees, and an accounting of all moneys
17 expended for reimbursement of expenses and compensation paid to
18 legislative representatives and lobbyists of the organization.

19 Under the bill, the organization must also provide education
20 and training to its board members regarding their fiduciary
21 duties and legal responsibilities.

22 The bill prohibits the head of the organization from
23 requiring an employee to inform the person that the employee
24 disclosed information, and prohibits the person taking adverse
25 employment action against an employee of the organization
26 who discloses information about the organization to a board
27 member, any public official, a law enforcement agency, a state
28 agency, the auditor of state or an auditor conducting an
29 examination in accordance with Code section 11.6, the office
30 of the attorney general, the office of citizens' aide, or to a
31 committee of the general assembly if the employee reasonably
32 believes the information evidences a violation of law or rule,
33 mismanagement, a gross abuse of funds, an abuse of authority,
34 or a substantial or specific danger to public health or safety.
35 The provisions do not apply if the disclosure of information is

1 prohibited by statute. A person who violates the prohibitions
2 commits a simple misdemeanor and may be liable to an aggrieved
3 employee for affirmative relief. The prohibition against
4 adverse action may be enforced through a civil action, and
5 the employee may bring an action for injunctive relief by
6 the district court. Adverse action against an employee for
7 declining to participate in contributions or donations is also
8 prohibited. The person and the organization must provide
9 employee notification procedures relating to these prohibitions
10 and remedies and must conduct related promotional campaigns.
11 The organization's governing boards meetings are subject to
12 Code chapter 21 and the governing board and the organization's
13 records must be maintained in compliance with Code chapter 22.