

Senate File 519 - Reprinted

SENATE FILE 519
BY COMMITTEE ON GOVERNMENT
OVERSIGHT

(SUCCESSOR TO SSB 1202)

(As Amended and Passed by the Senate April 13, 2011)

A BILL FOR

1 An Act relating to organizations representing school
2 boards, board members, and administrators, and to the
3 responsibilities and duties of such organizations, and
4 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 a school board
11 pays monetary fees for products or services or annual dues in
12 accordance with subsection 2. "Organization" includes a related
13 for-profit or not-for-profit subsidiary of an organization.

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

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

35 3. The financial condition and transactions of an

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

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

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

16 (1) A listing of the school districts that pay fees or dues
17 for membership in the organization and the moneys paid by each
18 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 total net profit from the sale of products
22 and services to the school district by the organization.

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

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

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

1 administers or distributes to school districts.

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

5 5. An organization shall not pay an employee or officer
6 of the organization, a member of the organization's governing
7 board, or a legislative representative or lobbyist for the
8 organization, a bonus or other consideration of any type which
9 is in addition to compensation paid and published and reported
10 as required by subsection 4. In addition, the organization
11 shall not allow any other entity to pay an employee or
12 officer of the organization, a member of the organization's
13 governing board, or a legislative representative or lobbyist
14 for the organization for services performed on behalf of the
15 organization. However, the organization may pay an employee
16 a commission if the terms for paying the commission are in
17 writing under an agreement which is a public document and the
18 employee's compensation, which shall list the amount of the
19 commission, is published and reported in the same manner as
20 provided in subsection 4.

21 6. *a.* A person who serves as the head of an organization
22 or otherwise serves in a supervisory capacity within the
23 organization shall not require an employee of the organization
24 to inform the person that the employee made a disclosure
25 of information permitted by this subsection and shall not
26 prohibit an employee of the organization from disclosing any
27 information to a member of the governing board or to any
28 public official, a law enforcement agency, a state agency, the
29 auditor of state or an auditor conducting an examination of
30 the organization in accordance with section 11.6, the office
31 of the attorney general, the office of citizens' aide, or to a
32 committee of the general assembly if the employee reasonably
33 believes the information evidences a violation of law or rule,
34 mismanagement, a gross abuse of funds, an abuse of authority,
35 or a substantial and specific danger to public health or

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

6 *b.* A person shall not discharge an employee from or take
7 or fail to take action regarding an employee's appointment or
8 proposed appointment to, promotion or proposed promotion to,
9 or any advantage in, a position administered by, or subject
10 to approval of, the person or the organization's governing
11 board as a reprisal for a failure by that employee to inform
12 the person that the employee made a disclosure of information
13 permitted by this subsection, or for a disclosure of any
14 information by that employee authorized under paragraph "a"
15 if the employee reasonably believes the information evidences
16 a violation of law or rule, mismanagement, a gross abuse of
17 funds, an abuse of authority, or a substantial and specific
18 danger to public health or safety. However, an employee may
19 be required to inform the person that the employee made a
20 disclosure of information permitted by this subsection if the
21 employee represented that the disclosure was the official
22 position of the employee's immediate supervisor or employer.

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

25 *d.* A person who violates paragraph "a" or "b" commits a
26 simple misdemeanor.

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

28 (1) A person who violates paragraph "b" is liable to
29 an aggrieved employee for affirmative relief including
30 reinstatement, with or without back pay, or any other equitable
31 relief the court deems appropriate, including attorney fees and
32 costs.

33 (2) When a person commits, is committing, or proposes to
34 commit an act in violation of paragraph "b", an injunction may
35 be granted through an action in district court to prohibit the

1 person from continuing such acts. The action for injunctive
2 relief may be brought by an aggrieved employee or the attorney
3 general.

4 *f.* A person shall not discharge an employee from or take
5 or fail to take action regarding an employee's appointment or
6 proposed appointment to, promotion or proposed promotion to,
7 or any advantage in, a position administered by, or subject
8 to approval of, the person or the organization's governing
9 board as a reprisal for the employee's declining to participate
10 in contributions or donations to charities or community
11 organizations.

12 *g.* The person and the organization's governing board
13 shall provide procedures for notifying the organization's
14 new employees of the provisions of this subsection and shall
15 periodically conduct promotional campaigns to provide similar
16 information to the organization's employees. The information
17 shall include the toll-free telephone number of the citizens'
18 aide.

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

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

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

29 (2) Information related to legal matters including
30 discussions or consultations with an attorney. Attorney
31 billing records are not confidential records except for such
32 records that are subject to the attorney-client privilege.

33 (3) Pricing, product, service, business strategy, or
34 marketing information which if released, would give an
35 advantage to competitors, vendors, or other parties and that

1 serve no public purpose.

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