

Collective Bargaining Changes HF 291

Summary of provisions regarding schools:

For any contract not already complete (ratified by association and approved by the board) on February 17, 2017: Sets base wages as the only mandatory subject of collective bargaining. Excludes supplemental pay, insurance, transfer procedures, procedures for staff reduction, subcontracting for public services, intensive assistance procedures and evaluation from negotiations. Prohibits automatic payroll deduction for association dues. Establishes a process for certification and decertification of association representatives. Defines arbitration process and sets limits of arbitrators' considerations, including the lower of 3% or CPI as set by BLS. Prohibits an arbitrator from considering past contracts or employers' ability to tax in the decision. Lengthens probationary period for teachers and administrators. Removes teacher's ability to appeal termination to an adjudicator (appeal goes directly to court.)

[HF 291](#) Collective Bargaining Changes: Itemized Detail and Resources

Section 1: Defines "supplemental pay" as any payment of moneys or other thing of value in addition to compensation received pursuant to any other permitted subject of negotiation in section 20.9 related to employment relationship.

Section 2: Restricts PERB duties to only administering chapter 20 (not interpreting or applying the law)

Section 3: Requires PERB to contract with a vendor as necessary to conduct association certification and recertification elections required by section 20.15. Requires fees for the cost of the election be paid by the association on the ballot in advance of the election.

Sec. 4: Adds evaluation to list of employer rights (hire, evaluate, promote, demote, transfer, assign and retain public employees) and states that employers may suspend or discharge public employees.

Sec. 5: Adds a new subsection to employee rights to exercise any right or seek any remedy provided in law and lists several related code chapters involving civil suits, civil rights and civil service chapters.

Sec. 6: scope of negotiations: Specifies that for bargaining units without at least 30% public safety employees, process to meet in advance of employer budget-making process and restricts mandatory subject of bargaining to base wages only, with other matters mutually agreed upon being permissive. Requires that mandatory subjects (base wages) be interpreted narrowly and restrictively. Excluded from negotiations: dues checkoffs and other payroll deductions for PACS, insurance, leaves of absence for political activities, supplemental pay, transfer procedures, evaluation procedures, procedures for staff reduction, subcontracting public services, shall also be excluded from the scope of negotiations. Allows a contract term for up to 5 years.

Sec. 7: Adds to prohibited practice that employees can't negotiate with employer or board member who isn't the designated bargaining rep for the employer.

Sec. 8: Doubles the wait period to two years if employee organization fails to comply with an injunction or is convicted of violating this section and requires they go through certification process again to be the bargaining unit.

Sec. 9: **Elections:** For initial **certification elections**, changes requirement from 10% to 30% of public employee signatures in the unit. Changes the standard from majority of those voting to majority of

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those in the bargaining unit. If there is no majority, the bargaining unit shall not be represented by an employee organization. Requires two year wait from date of last certification election. **Retention elections:** requires PERB to conduct an election to retain and recertify the bargaining rep of a unit prior to the expiration of the collective bargaining agreement and determines when the elections shall occur. Bargaining rep continues if majority of those public employees in the unit vote to retain. If majority don't vote to retain, the unit is decertified and there is no rep until a recertification election is successful. **Decertification elections:** if petition is filed, PERB shall submit question to public employees of the unit and the ballot shall ask whether the bargaining rep of the public employees in the unit shall be decertified. If majority vote to decertify, there is no bargaining rep until a certification election is successful. Petition for decertification can only be considered by PERB if the current collective bargaining agreement exceeds two years in length. **Invalidation of elections:** specifies who files written objections regarding misconduct or circumstances employees from freely expressing their preferences and process to hold a second election. Also addresses state agreements. See PERB Statement on their website about Recertification Elections: <https://www.iowaperb.iowa.gov/have-questions>

Sec. 10: applies to **state employees only**

Sec. 11: Strikes section about employee prohibited practice of negotiating with board (replaced by new section 20.10 which is sec. 7 above.)

Sec. 12: Allows both parties to agree to deadline for exchange of final offer before arbitration.

Sec. 13: Restricts arbitrator from considering any new evidence on any subject excluded from negotiations except for that necessary to consider comparability. **Sets a limit on arbitrator awards for bargaining units (includes schools) requiring arbitrator to award the lessor of**

a) 3% or

b) CPI for all urban consumers for Midwest region set by US Dept. of Labor, BLS or a successor index. s PERB to notify parties of the CPI mentioned above and allows PERB to get help from Dept. of Workforce Development. (That rolling average CPI is on the PERB Web site www.iowaperb.iowa.gov)

Requires arbitrator to consider (for schools) 1) comparison of wages, hours, conditions of employment with other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved. To the extent adequate applicable data is available, shall also compare base wages, hours and conditions of employment of with private sector employees doing comparable work. 2) interest and welfare of the public 3) financial ability of the employer to meet the cost of an offer in light of current economic conditions of the public employer. Requires arbitrator to give substantial weight to employers' authority to utilize funds if restricted to special purposes or circumstances by state or federal law, rules, regulations or grant requirements. Prohibits the arbitrator from considering either past practice/past collective bargaining agreements or the employer's ability to fund an award through the increase or imposition of new taxes, fees or charges or to develop other sources of revenue.

Sec. 14: States this law doesn't prohibit individual political contributions, as long as they are not through payroll deductions.

Sec. 15: Requires collective bargaining agreements to be in writing and signed by both parties. Requires employer to file agreement with PERB. Requires PERB to maintain a searchable database of collection bargaining agreements and other info on an internet site.

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Sec. 16: Increases the time period from 6 months to 36 months during which a supervisory member of any dept. or agency employed by state of Iowa is prohibited from requesting and receiving a reduction in rank from retiring and receiving benefits associated with the lower rank.

Sec. 17: Adds arbitration to the list of proceedings for which a mediator is not required to testify.

Sec. 18: applies only to transient employees of DOT

Sec. 19: Adds evidence of employee support for retention and recertification votes to confidential records, and Sec. 20 includes how an individual employee voted is confidential record.

Sec. 21 and 22: **eliminates payroll dues deduction and further prohibits employers from authorizing or administering a payroll dues deduction for membership in an employee organization.**

Sec. 23: Doesn't apply to schools: Eliminates references regarding pension or annuity retirement system (lists waterworks system or other publicly owned utility)

Sec. 24: Clean up language adding "not retained or recertified" to list of public organizations

Sec. 25: **Transition Procedures/Emergency Rules;** as of the effective date of the act (February 17, 2017) parties, mediators, and arbitrators engaging in any collective bargaining procedures who have not completed such procedures shall immediately terminate any procedures in process. Nullifies any CB agreement in process not yet completed. Requires schools to complete negotiations that impact the remainder of calendar year 2017 by June 30, 2017 unless mutually agree to later date. Requires PERB to adopt emergency rules. PERB transition guidance is found on their website [here](#).

Sec. 26: Effective on enactment

Sec. 27: Applicability provisions: Does not apply to CB agreements already in effect, but applies to CB procedures occurring on or after the effective date. Also specifies that preexisting contracts may continue dues deductions.

DIVISION II: EDUCATOR MATTERS

Sec. 28: Allows contracts to be modified (in addition to current law referencing either continuing or terminating a contract.) Allows temporary contracts for period up to 6 months. Allows temp contract to fill a vacancy for employee on military leave. States that temporary contracts are not subject to discharge procedures/rights to appeal.

Sec. 29: specifies that some protection provisions of teachers except for appeal of termination to adjudicator, apply to community college "teachers" in certain circumstance.

Sec. 30: Requires the school board to establish evaluation criteria and procedures and removes evaluation from negotiations. Removes grievance procedure requirements regarding teacher termination.

Sec. 31: Lengthens timelines for private hearing requested by teacher after receiving termination notice, private hearing must be held between 20-40 days (was 10-20). Requires district to furnish teacher documentation which may be presented to the board 10 days (was 5) before the private hearing. Requires teachers to provide district with documentation that teacher expects to present at the hearing 7-days prior (was 3).

Sec. 32: Adds "witnesses to for the parties" as individuals allowed to participate in the private hearing. Eliminates board authority to subpoena witnesses. Strikes waiting period of 5 days after teacher does

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not show at the private hearing, allowing board to proceed with determination. Adds another option to board action of issuing the teacher a one-year, nonrenewable contract (currently board can suspend teacher with or without pay for a period specified by the board.) Eliminates fact finding from record of the public hearing. Requires the written decision of the board and the record of the private hearing are exempt from public records requirements.

Sec. 33: Strikes 279.16(3) (referring no-show witnesses to county court) and strikes 279.16(5) which allowed the superintendent or teacher to provide briefs or written arguments within 3 days of the conclusion of the private hearing.

Sec. 34: Allows teacher to appeal board's decision to terminate directly to court (removes intermediate appeal to adjudicator from the process.) The Board Secretary is required to transmit to the reviewing court the original or certified copy of the entire record which may be the subject of the petition for review. The court is to give weight to the board's decisions, but may reverse, modify or grant any other appropriate equitable or legal relief.

Sec. 35: **Increases probationary period of newly hired teacher who has previously completed a probationary period from 1 to 2 years.** Allows board to terminate a probationary teacher without cause. Requires board to notify teacher of termination by April 30. Within 10 days, the teacher may request a private conference with the board to discuss reasons for termination. There is no appeal process unless the termination was based on an alleged violation of a constitutionally guaranteed right of the teacher. Eliminates an alleged violation of Chapter 20.10 rights to question the board's final and binding decision for probationary teacher. Eliminates reference to grievance procedures in this code section.

Sec. 36: **Eliminates supplemental pay for coaches from mandatory subject of bargaining.** Eliminates the requirement that a coaching contract be continued automatically. Requires that if the coaches contract and a collective bargaining agreement in force conflict, the provisions of the CB agreement apply. Allows board to terminate a coaching contract for any lawful reason following an informal hearing before the school board. The board's decision is final.

Sec. 37: Eliminates requirement that administrator contract includes compensation per week for 5 consecutive days or month of four consecutive weeks, instead requiring contract to include the rate of compensation.

Sec. 38: Allows temporary contract with administrator for up to 9 months.

Sec. 39: In addition to termination the board may issue a one-year nonrenewable contract to an administrator. Increases administrator probationary period from 2 to 3 years, but the board may extend it for an additional year with consent of the administrator.

Sec. 40: Allows an administrator after receiving notice of termination to request a private hearing. Increases the timeline to setting the private hearing between 20-40 days (was 10-20 days). Requires any witnesses to be sequestered. The procedure occurs before an administrative law judge. The administrator may appeal to the board for a private hearing within 10 days. Eliminates fact finding. Requires the written decision of the board and the record of the private of the private hearing are not public records.

Sec. 41: **Discharge of a teacher:** adds definition of just cause including but not limited to a violation of the code of professional conduct and ethics of the BOEE if the board has taken disciplinary action.

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Sec. 42: **Eliminates grievance and evaluation** procedures from negotiations. Eliminates additional teaching standards and criteria from negotiations.

Sec. 43: **Teacher Quality Committee:** Strikes reference to negotiated agreement regarding evaluation procedures. Instead of the contract, requires the TQ Committee to determine the compensation for teachers on the committee for work beyond the school day.

Sec. 44: **Specifies that intensive assistance** and its implementation are not subject to grievance procedures or negotiation. States that a teacher having received intensive assistance regarding an Iowa teaching standard or criteria is not subject to another round of intensive assistance on the same standard.

Sec. 45: Strikes requirement of peer review for teachers.

Sec. 46: **Allows district evaluation and review after teacher completes intensive assistance** and if the teacher did not successfully complete the intensive assistance program, they can terminate the teacher's contract immediately, terminate the contract at the end of the year, or continue the contract for a period not to exceed one year.

Sec. 47: Strikes the appeal by teacher to an adjudicator

Sec. 48: This section is effective on enactment

Sec. 49: Applicability provisions: applies to all collective bargaining procedures occurring on and after the effective date of this division.

Sec. 50: If an individual resigns in lieu of termination, was discharged or demoted as the result of a disciplinary action, the documented reasons and rationale for the action are considered public records.

Sec. 51: Applies to state employees only, not schools. Prohibits confidentiality or nondisclosure provisions in personnel settlement agreements.

Sec. 52: Requires public employer that takes disciplinary action that could be a public record to notify the employee prior to taking the disciplinary action that the info placed in the employee's personnel file as a result of the disciplinary action may become a public record.

Sec. 53: Effective on enactment and Sec. 54 Applicability on enactment

Secs. 55-64 civil services provisions not impacting school districts.

Sec. 65. **Public Employee Health Insurance:** Requires that a public employer offer health insurance to all permanent, full-time employees employed by the public employer. There is no definition of full-time employee in the statute.