

May 15, 2008

The Honorable Michael Mauro
Secretary of State

L O C A L

Dear Mr. Secretary:

I hereby disapprove and transmit to you House File 2645, an Act concerning public employee collective bargaining and teacher discipline, without my signature, in accordance with Article III, section 16 of the Constitution of the State of .

On January 15, 2008, when I delivered my Condition of the State address, I urged legislators to consider a number of reforms aimed at making a better place for its workers and managers. Included in the proposals I made at that time was the suggestion that members of the General Assembly openly debate labor-management issues. I said:

[F]or the benefit of working Iowans, I challenge you to try to find consensus, and to not be afraid to debate difficult issues, like, prevailing wage, independent contractor reform, choice of doctor, fair share, and the right to bargain matters like employee discipline and discharge.

This Administration stands ready to revise, amend and improve 's labor laws and strongly supports the principles of collective bargaining. When we do so, however, we must exert care to assure that such changes are achieved in ways that use normal legislative processes, truly reflecting the gravity and importance of the issues under consideration, and in ways that assure that the citizens who grant us the privilege of holding public office have every opportunity to weigh-in and have their voices heard.

House File 2645 is a bill that does not simply modify, but, rather, completely re-writes, both our public sector collective bargaining law under Code chapter 20, and the teacher discipline and discharge provisions under Code chapter 279.

In 1973, after years of statewide effort and public debate, and after countless public hearings convened by the House and Senate here in the capitol, a bill for a law known as the Iowa Public Employment Relations Act, now chapter 20 of the Iowa Code, was brought to the floor of the general assembly for a debate that would extend over a two-year period. In the second session, the Act came up for consideration as a special order of business. The debate lasted for twelve days. One hundred ninety-eight amendments were offered, fifty-eight of which were adopted in whole or in part.

In contrast to the process undertaken thirty years ago, the core principles that normally guide the legislative process – fair advance notice to the public of what laws we intend to change or create, citizen access to the lawmaking process, and minimizing taxpayer uncertainty as to economic effects of a law by drafting laws with clarity – were not sufficiently respected in the case of House File 2645.

The result is a poorly written bill with sometimes-ambiguous language that raises troubling, unanswered questions and unresolved uncertainties for management, labor and taxpayers alike. At the heart of the ambiguities is the “open scope” language of the bill, which does not define what is, and what is not, a part of the “other terms and conditions not already excluded,” that could be made subject to mandatory bargaining. As a result, if House File 2645 were to become law, the reasonably settled expectations of thirty years of practice under existing law would be placed at risk. The hybrid law—unlike that of any other state in the nation—consisting of a substantially lengthened “laundry list” of Iowa’s statutorily-based

mandatory bargaining issues, combined with “open scope” language borrowed from the federal National Labor Relations Act, could result in an almost unlimited reach of mandatory bargaining topics, all of which could be made subject to binding arbitration upon impasse and which could potentially result in untold and unintended obligations resulting in substantial tax increases.

Similarly, the proposed changes to chapter 279 would make ’s education law an outlier in a number of significant ways. No other state has abolished the probationary, “at-will” period of new teacher employment. No other state assigns teacher termination and disciplinary decisions to a third-party adjudicator, and then denies the right of the parties to appeal and judicial review. No other area of administrative law so severely limits the use of hearsay evidence in agency proceedings as is provided in House File 2645.

Iowans from all walks of life have registered their concerns about House File 2645, and we have listened to those concerns. In addition to the nearly 6,000 citizens who have offered their opinions in e-mails, letters and telephone calls, the Lt. Governor and I, along with our senior staff members, have collectively engaged in more than thirty meetings with individuals representing labor and management and elected officials from all public sectors: state, county and city governments; school districts and community colleges; municipal utilities and rural water districts. Our office has sought and received the counsel of some of ’s most experienced and respected public sector collective bargaining negotiators—from both the management and the public employee sides of the table.

That Iowans are concerned about the particular approach to change that House File 2645 represents does not mean that present laws should not be reformed. Indeed, in the course of our intensive review of this bill with stakeholders and citizens, we have become more convinced than ever before that, after full public debate and discussion, modifications to existing law under chapter 20 should be seriously considered to include additional areas of mandatory bargaining, such as discipline and discharge issues and matters related to worker safety.

’s public sector labor law now comprises a rich, complex fabric, woven of many threads, both visible and invisible, that reach from the dome of the state capitol to every corner of the state. A sudden pull on a single thread of any fabric, if one is not careful, may render more destruction to it than a tailor ever intended. So, too, care must be taken not to inflict unintended adverse harms in a rush to modify complex laws and practices.

After this careful review of the bill, we understand what is right, and what is wrong, with it. Some people had urged this Administration to stitch together a compromise agreement in the closing days of the legislative session. We determined, however, that there was no common thread of sufficient strength, no shared understanding of sufficient breadth, to patch this bill together in a new way that would satisfy stakeholders and protect taxpayers, alike.

Further, we were determined not to replace one flawed, rushed legislative process that largely excluded the public with another, essentially closed, negotiation process, in an effort to draft yet another substitute bill. Taxpayers would understandably have been wary of any sudden compromise that appeared to have been merely the result of political expediency rather than the end product of a careful, principled, deliberative legislative review conducted in the full light of day.

For all these reasons, I hereby disapprove and transmit to you, without my signature, House File 2645, in accordance with Article III, Section 16, of the Constitution of the State of .

Sincerely,

J. Culver

Governor

cc: Secretary of the Senate

Chief Clerk of the House

CJC: jcl