

# **“To Promote Harmonious and Cooperative Relationships”: A Brief History of Public Sector Collective Bargaining in Iowa, 1966 to 2016**

The University of Iowa Labor Center, 2016

In 1974, Iowa’s Public Employment Relations Act (now Chapter 20 of the Iowa Code) was passed with bipartisan support and signed into law by a Republican governor, Robert D. Ray. The act reflected careful compromise by Iowa’s public employers and employees, many of whom had come together to advocate for Iowans to adopt a fair and binding legal process to settle disputes.

By all accounts, the system established by the act has worked well for over forty years to promote negotiated settlements of public sector contracts, to prevent strikes, and to promote widespread prosperity and stable communities by aligning standards of employment with regional and occupational trends. No public sector strikes have occurred since the law was passed, and an average of ninety-eight percent of public sector contracts negotiated in Iowa each year are settled voluntarily. Those that reach impasse are forwarded to a third-party arbitrator, whose decision is final and binding, and who is required by statute to take into account budgetary constraints and comparisons between the contract terms in question and conditions of employees in similar employment.

## **Why did state leaders determine there was a need for a public sector collective bargaining law?**

Long before 1974, Iowa’s public sector workers had joined unions and other associations to advance their collective interests and to pursue the public good. Before Chapter 20, however, public employees and employers lacked a legally binding system for resolving disputes.

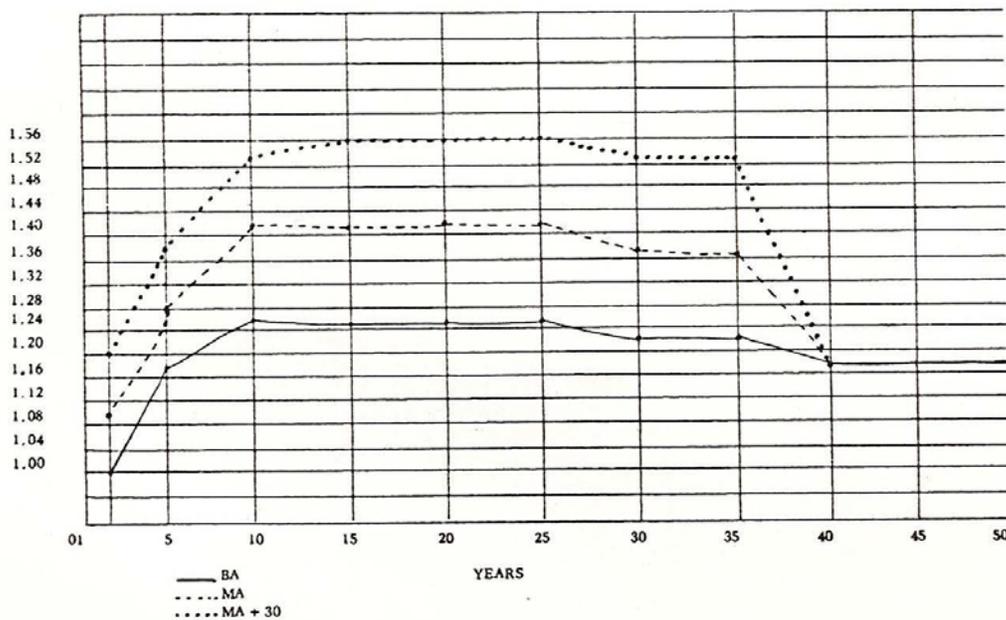
By the late 1960s and early 1970s, working conditions and pay for many public sector workers had deteriorated to the point where disputes began to happen with more frequency. In the absence of a system for handling impasse in negotiations, employees began to strike in hopes of achieving better outcomes in cases where employers either refused to negotiate at all or refused to compromise on what employees had decided were key demands. Major work stoppages during this period included the following:

- 1967 – Des Moines Municipal Laborers
- 1968 – Physical plant workers at the University of Northern Iowa
- 1969 – Des Moines firefighters
- 1970 – Keokuk teachers
- 1970 – Nurses at Mary Greeley Hospital in Ames

Various factors led to each of these stoppages, but the most important was **the absence of binding arbitration.**

The case of the Keokuk School Board’s 1969-70 negotiations with the city’s teachers (represented by the Keokuk Education Association, an affiliate of the Iowa State Education Association) serves as an illustration. The board was led by a new superintendent who was determined to expand a system of merit pay and to lower teacher pay overall. He focused negotiations on a proposal to change the pay structure

## Keokuk School Board's "Rainbow" pay structure threatens drastic pay cuts for most experienced teachers (1970)



from a traditional one based on education and years of service (with some additional merit pay) to a "rainbow" structure based around merit pay. During the first ten years of a teacher's career, the rainbow structure looked very much like the traditional system. After year ten, however, it substituted merit pay for *any* additional time-of-service pay, with the effect of creating a pay ceiling beyond which teachers could move only by accepting whatever incentives the board offered. Moreover, the rainbow structure actually *decreased* pay between years twenty-five and forty as a method of encouraging experienced employees to leave or retire.<sup>1</sup>

Gender discrimination was also a key issue in the dispute. Among the board-proposed forms of merit pay for which teachers would have been eligible under the new pay structure was an allowance for teachers with children. Many teachers derided the allowance as the "stud fee" because of administrators' habit of applying it unfairly as a means of recruiting men (while women were routinely forced to take leave or quit upon becoming pregnant).

By March 1970, the board and teachers had failed to reach a settlement. The State Superintendent of Public Instruction appointed a mediator, but when the mediator deemed the rainbow pay structure an

<sup>1</sup> Figure 32. Graphic Summary, Career Productivity Modification to Improve the Present Salary Index Structure, as found in Morris D. Wilson, "The Keokuk Teachers Strike: A Case History" (PhD diss., University of Iowa, 1972), p. 96. The historical narrative portions of this document come largely from Wilson's dissertation and interviews with former Keokuk teachers and Iowa legislators collected by the Iowa Labor History Oral Project. The interviews are accessible through the Labor Center and the State Historical Society of Iowa in Iowa City.

unnecessarily radical and disruptive change to past practice, the board—free to ignore the mediator’s compromise proposal—unilaterally declared bargaining at an end and imposed its own proposals.

Faced with such an intransigent board and no other legal recourse, teachers felt they had no other option than to strike. Joined by the district’s maintenance employees, who were also in the process of bargaining with the board, teachers walked out, preventing most of the city’s schools from operating, until a judge issued an injunction against the KEA and jailed members of its leadership. Seeing local teachers go to jail was too much for many community members to bear, including members of the school board, who broke with the majority and forced negotiations to resume, eventually producing an agreement very much like the one proposed by the mediator.

Like other public worker strikes of this period, the failed negotiations in Keokuk and their aftermath illustrated the kinds of community disruptions that could occur in the absence of a legal framework for collective bargaining. As the *Des Moines Register* observed, “The strike should not have occurred. The two sides . . . are not far apart on what they want in next year’s teacher contracts. . . . The Keokuk impasse might have been avoided if Iowa had a law providing for collective bargaining for public employees. . . . A formal procedure for working out the narrow differences in Keokuk might have avoided this unfortunate strike.”

### **How did Iowa adopt its collective bargaining law?**

Even before the strike wave of the late 1960s and early 1970s, Iowa’s public employees and employers—especially in school districts—began proposing a law to establish a system for public sector bargaining.

In 1966, the ISEA, at the time an organization made up of both teachers and administrators, took the lead by issuing a statement in favor of collective bargaining. ISEA submitted a proposal for a collective bargaining bill to the legislature the following year, but the bill died in committee.

By 1969, Republican governor Robert Ray had announced his support for adopting a statewide legal framework for public sector bargaining, and the legislature established a study committee to consider the issue. Little came of the committee’s efforts until 1973, when a coordinated effort by Iowa teachers, firefighters, and allies in the Iowa Federation of Labor resulted in a bill that passed the Senate, but died in the House.

In 1974, John Connors, a legislator with a background as a firefighter, spearheaded a second attempt at a bill. After twelve days of debate and significant amendment, an exceptionally bi-partisan coalition in the House passed the bill. Of the 56 House members who voted for the bill, 18 were Republicans, including conservative leader David M. Stanley, who went on to cofound Iowans for Tax Relief. The Senate passed the amended bill, with implementation phased in over the next two years.

### **What does the Public Employment Relations Act do?**

Iowa’s Public Employment Relations Act (Chapter 20) does several important things. It specifies the legal rights of public workers and public employers. It creates “rules of engagement,” specifying how the parties can and cannot interact with each other. It created a state agency, the Public Employment Relations Board, to enforce the law and administer public sector collective bargaining. Chapter 20 lists the topics over which bargaining can and cannot occur. Perhaps most significantly, Chapter 20 created a new system for resolving collective bargaining issues between public employers and public workers.

Under Chapter 20, the negotiation process has several different phases or steps. The first step is the formal exchange of written proposals. This step happens in a public meeting. After the exchange of

proposals, the parties meet privately to discuss the issues. If they are not able to reach an agreement on their own, the next step is mediation.

A mediator is a neutral party, chosen by PERB, who meets with the parties and attempts to help the parties find a mutually agreeable solution to their issues. The mediator has no power to compel the parties to agree to anything. The mediator's only power is persuasion.

If mediation does not resolve the dispute, the matter advances to arbitration. The arbitrator is a neutral person, chosen by the parties from a list provided by PERB. The arbitrator's role is very different from a mediator. Under Chapter 20, the arbitrator is empowered to resolve the dispute between the parties by conducting a hearing and then issuing a decision on the issues in dispute.

The arbitration process under Chapter 20 involves something called "final offer" arbitration.<sup>2</sup> In this kind of arbitration, each party makes a final offer on each of the issues in dispute. The arbitrator chooses between those final offers on each disputed issue. The arbitrator is required to choose the final offer which is the most "reasonable," based on the evidence offered by the parties and after considering the factors which are specified in Chapter 20 (comparability, bargaining history, ability to pay and impact on the public).

This system is designed to encourage good faith bargaining, by punishing whichever party is more unreasonable. For example, let's imagine a year in which the cost of living increases by about 2% and wages in Iowa increase by about 2.5% on average. Over the last four years, wages in our hypothetical public sector workplace have gone up by an average of 3%, but some of that increase has been absorbed by increased insurance costs for the workers. At arbitration, the Union's final offer on wages is a 6% across the board wage increase. The employer's final offer is a pay freeze (0%). It's very likely that the arbitrator would like to award a wage increase somewhere between 2% and 3%. Let's say the arbitrator thinks 2.5% would be the most reasonable choice. However, she has to choose between the two final offers, 0% and 6%. It's very likely that the arbitrator's award will be 0%, since that's closer to 2.5% than the union's proposed 6%. So the Union will lose this issue.

However, if both parties understand the system and are aware of the facts, the Union should realize ahead of time that 6% is too high. In our example, if the Union lowered its final offer to 4.5%, the Union would probably win this issue. But if the Union lowers its wage proposal to 4.5%, the Employer might want to raise its wage offer to 1%. Then the Employer's offer is closer to what the arbitrator is thinking (2.5%) and the Employer will probably win. But the Union could come down to 3.5% and the Union would be even closer. Eventually, the likely result will be that the parties will meet in the middle, at or near the place they anticipate that an arbitrator would think is reasonable, given all the relevant information. In fact, data show that's what happens most of the time (see below).

## **Is Iowa's collective bargaining law working as state leaders intended?**

To answer that question, we have to think about what the law was designed to do. Historical evidence makes it clear that the bi-partisan coalition in the legislature intended the new law to make significant changes in the status quo in order to produce very specific public benefits. The preamble to Chapter 20 says:

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<sup>2</sup> Originally, there was another step in the process, "fact-finding", which was after mediation and before arbitration. The fact finding step was eliminated by the legislature in 2010 as part of the "technical corrections" bill.

*The general assembly declares that it is the public policy of the state to promote harmonious and cooperative relationships between government and its employees by permitting public employees to organize and bargain collectively; to protect the citizens of this state by assuring effective and orderly operations of government in providing for their health, safety, and welfare; to prohibit and prevent all strikes by public employees; and to protect the rights of public employees to join or refuse to join, and to participate in or refuse to participate in, employee organizations.*

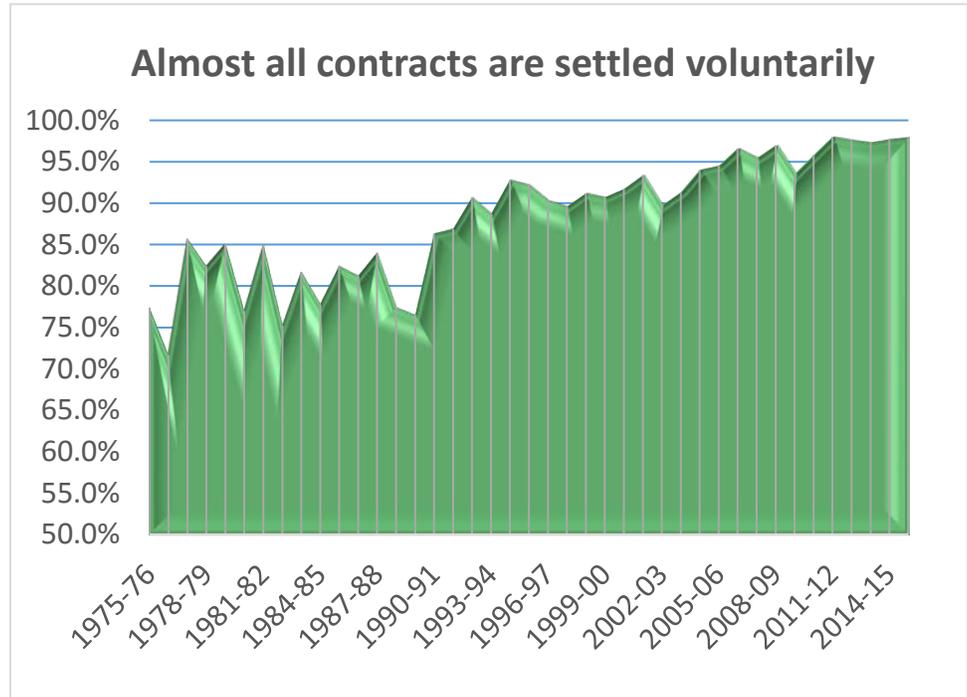
The legislation thus had three main goals:

1. Promote the voluntary negotiation of collective bargaining agreements between public sector employers and workers.
2. Provide an orderly method for resolving bargaining disputes in those cases where the parties cannot agree voluntarily.
3. Prevent strikes by public sector workers.

Available data suggest that by these measures, Chapter 20 has been an enormous success.

**1. The vast majority of public sector contracts are resolved voluntarily.**

Chapter 20 is meant to encourage voluntary settlements, and it certainly has done so. Since Chapter 20's passage, public employers and public workers have been able to negotiate mutually acceptable agreements voluntarily, without any need for a hearing, in the vast majority of open contracts. In the very first year of public sector bargaining, 1975-76, 77.4% of all contracts were resolved voluntarily.<sup>3</sup> That



percentage has steadily increased over time. **In the 2015-16 bargaining cycle, 97.9% of open contracts were resolved voluntarily.** That's certainly strong evidence that public employers and public workers in Iowa have achieved the "harmonious and cooperative relationships" which were a primary goal of Chapter 20.

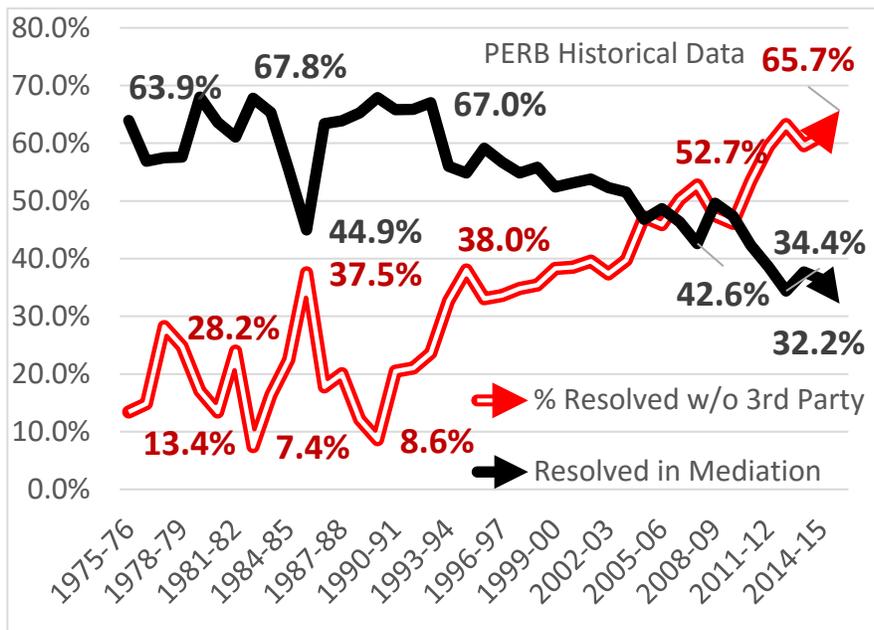
The impasse process laid out in Chapter 20 is designed to deter either party from adopting extreme or unreasonable positions on the issues. The result is that the parties are pushed to adopt moderate and

<sup>3</sup> The data in this section comes from PERB records. The data which was used to create the charts can be found at: <https://iowaperb.iowa.gov/sites/default/files/PERB%20HISTORICAL%20IMPASSE%20ACTIVITY-thruImp16-Homepage.doc.pdf>

reasonable proposals that often result in the parties finding common ground. As time passed, and the process became more familiar, the percentage of voluntary agreements has increased.

Another interesting development over time has been a decline in the reliance on mediation. In the early years of public sector bargaining, the parties sometimes were able to reach voluntary agreement on their own, but it was more common for them to employ a mediator to help them reach an agreement. In 1975-76, only 13.4% of contracts were resolved without a mediator. Mediators helped to resolve another 63.9% of contracts in that year.

Percentage of public sector contracts settled without mediation has increased over time (1975-2015)

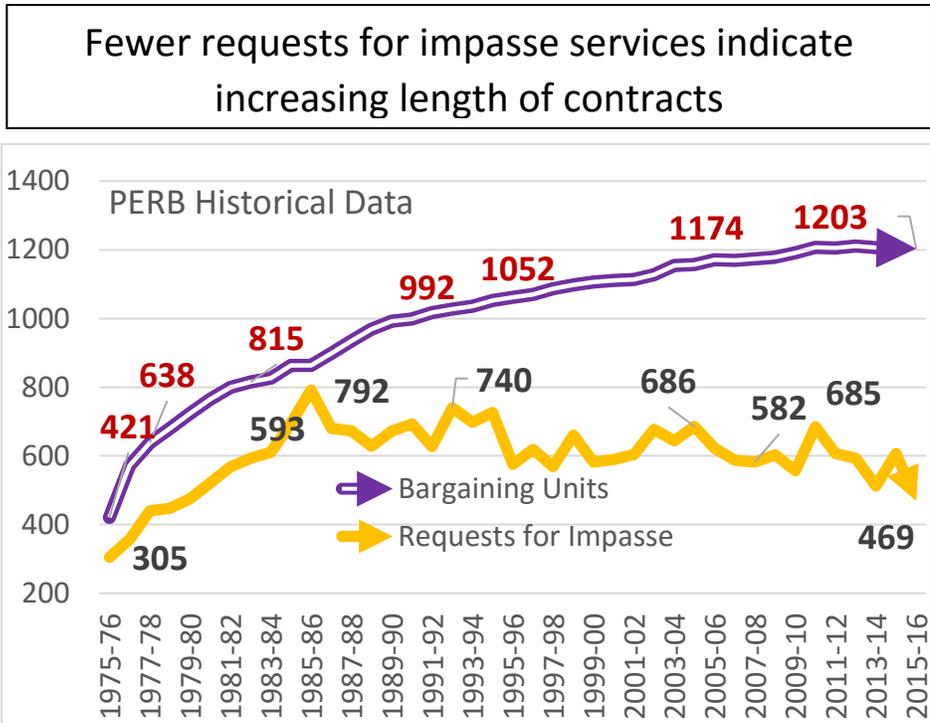


Mediators continue to play an important role in the process. In 2015-16, mediators assisted in reaching voluntary agreements in 32.2% of open contracts. The percentage of voluntary agreements without a mediator has shown substantial growth over the years. **In the 2015-16 bargaining cycle, a remarkable 65.7% of all open contracts were resolved by the parties on their own.** In other words, about two thirds of the time public employers and public workers were able to sit down and negotiate mutually acceptable contract terms without any outside assistance whatsoever.

This increase in voluntary resolution by the parties on their own, demonstrates both an increasing understanding of the process (and its limitations) and greater confidence and trust between the parties. These trends are also visible in another historical measure, an increase in the length of public sector contracts.

Contracts with the State of Iowa are two-year contracts, by statute. All other public sector contracts (cities, counties, school districts, etc.) are one-year agreements unless the parties mutually agree to longer time periods. The following chart shows the number of bargaining units (groups of employees who have chosen to bargain collectively). The number has grown over time, from 421 bargaining units in the first year, up to a high of 1211 in 2012-13. However, the number of “requests for impasse services” has not

similarly increased. The parties are required to file a “request for impasse services” with PERB each year they are negotiating a contract. Last year, there were 1203 certified bargaining units and only 469 requests for impasse services. That means that almost two thirds of public sector contracts were not open last year, which could only be true if there are a very large number of multi-year agreements in effect. This also indicates that the parties have enough confidence in the system and trust in each other to commit themselves to multi-year contracts.



**2. The arbitration process has worked well as a means of resolving difficult disputes when they arise.** Although the parties have been able to resolve the vast majority of disputes voluntarily, arbitration has continued to play an important role in the process. Indeed, some would say that the availability and predictability of arbitration has played an important role in the increasing success of voluntary settlements.

Analysis of arbitration awards decided from 2011-2015<sup>4</sup> shows that typical, recent cases involved local government employees (cities and counties). In almost every case there was a dispute about wages and in many cases insurance was also in dispute. About a third of the cases involved an additional issue as well. Usually, the final offers of the parties were relatively close, which is what you would expect from parties who have familiarity with the process.

Out of 76 cases decided during this period of time, arbitrators ruled in favor of the employer in 22 cases, in favor of the union in 21 cases, and in 33 cases, the arbitrator issued a “split decision”, meaning that the arbitrator ruled in favor of the union on one issue or more and ruled in favor of the employer on one issue or more.<sup>5</sup> The even-handed results suggest an exceptionally high level of consistency, and no evidence of any particular bias in arbitrators’ rulings.

**3. There has not been a single public sector strike since chapter 20 was enacted in 1974.** On this measure, Chapter 20 has so far achieved a 100% success rate.

<sup>4</sup> Impasse arbitration awards are published at: <https://iowaperb.iowa.gov/node/31/>

<sup>5</sup> Arbitrators are required to consider each “impasse item” separately. Impasse items correspond to the list of mandatory topics of bargaining specified in §20.9, including, wages, hours of work, insurance and other benefits.

## **Has Iowa’s collective bargaining law changed over time?**

Many amendments have been proposed to Chapter 20 since 1974. However, very few changes have actually been adopted. Chapter 20 was amended in 1976 to change how union elections occurred. In 2010 the legislature passed a “Technical Corrections” bill sponsored by the Iowa Public Employment Relations Board (PERB), making several small changes and corrections. Otherwise, the language of 1974 is mostly still in effect.

To date, there have been three attempts to make fundamental changes to Chapter 20.

- In 1991, after losing a series of arbitration decisions involving state employees, Governor Terry Branstad vetoed a bill adopting the arbitrators’ decisions. The Iowa Supreme Court ruled that the governor’s action was unconstitutional in *AFSCME v. Branstad*, 484 N.W.2d 390 (1992).
- In 2008, the Democratic-controlled legislature passed a bill (HF 2645) which would have greatly expanded the topics that could be negotiated under Chapter 20. That bill was vetoed by Governor Chet Culver.
- In 2011, Gov. Branstad sponsored a bill (HF525) which would have fundamentally altered public sector collective bargaining in several important ways. That bill passed the Republican controlled House, but the Democratically controlled Senate refused to debate it.

## **What impact has public sector bargaining had on Iowa?**

Over more than four decades, Chapter 20 has by all available measures met the three primary goals set by the bi-partisan coalition that crafted it: promoting voluntary negotiation of contracts between employers and employees, providing an orderly method for resolving disputes, and preventing public sector strikes. State leaders adopted the Public Employment Relations Act in 1974 because Iowa lacked an orderly way to resolve disputes between public employers and employees. The law also continues to provide a clear public benefit by creating a mechanism through which public employees can address serious concerns—which prior to the law’s passage often included poverty wages and arbitrary, unpredictable, or discriminatory workplace policies. The mechanism of collective bargaining has rationalized employer-employee relations in state and local government, created wage transparency, promoted pay equity, and ensured that many public sector jobs—in Iowa’s education, social service, criminal justice, protective services, and other agencies—are structured as career occupations that attract qualified professionals, and retain dedicated public servants. Alongside these profound effects on job quality in public service occupations, the law has produced a remarkable track record of over forty years of consistently peaceful labor relations in Iowa’s public sector.