

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

AFSCME IOWA COUNCIL 61,
JOHNATHON GOOD, RYAN DE VRIES
TERRA KINNEY AND SUSAN BAKER

Plaintiffs,

v.

STATE OF IOWA AND IOWA, STATE COURT
ADMINISTRATOR AND
PUBLIC EMPLOYMENT RELATIONS BOARD,
Defendants.

Case No.

**PETITION FOR INJUNCTIVE RELIEF AND
DECLARATORY JUDGMENT**

COME NOW the Plaintiffs, AFSCME Iowa Council 61, Johnathon Good, Ryan De Vries, Terra Kinney and Susan Baker, by and through their attorneys Mark T. Hedberg and Sarah M. Baumgartner, and pray for a declaratory judgement that certain amendments to Chapter 20 of the Iowa Code signed into law on February 17, 2016 (the "Amendments") are unconstitutional, null and void, as well as temporary and permanent injunctive relief prohibiting the enforcement of the Amendments, and in support thereof state the following:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff AFSCME Iowa Council 61 ("AFSCME"), is an employee organization as defined by Iowa Code Chapter 20 ("Chapter 20") representing public employees throughout the State of Iowa. AFSCME sues on behalf of itself, its public employee members, and the public employees for whom it is the exclusive bargaining representative, all of whom are subject to the unconstitutional classification set forth in the Amendments challenged in this action.

2. Plaintiff Johnathon Good ("Officer Good"), an AFSCME member, is a public employee as defined by Chapter 20 who is currently employed by the State of Iowa as a Corrections Officer. Officer Good is a member of a bargaining unit represented by AFSCME, but

“Public Safety Employees” do not constitute at least thirty percent of the unit members. As a Corrections Officer, Officer Good’s job responsibilities and risks are substantially similar to public employees classified as “Public Safety Employees” by the Amendments, but because Corrections Officers are excluded from the Amendments’ definition of “Public Safety Employees,” Officer Good does not qualify as a “Public Safety Employees” under the Amendments.

3. Plaintiff Ryan De Vries (“Officer De Vries”), an AFSCME member, is a public employee as defined by Chapter 20 who is currently employed by the State of Iowa as a Police Officer III. De Vries is a member of a bargaining unit represented by AFSCME, but “Public Safety Employees” do not constitute at least thirty percent of the unit members. As a Police Officer III, Officer De Vries’ job responsibilities and risks are identical to public employees classified as “Public Safety Employees” by the Amendments, but because Police Officer IIIs are excluded from the Amendments’ definition of “Public Safety Employees,” Officer De Vries does not qualify as a “Public Safety Employee” under the Amendments.

4. Terra Kinney (“Officer Kinney”), an AFSCME member, is a public employee as defined by Chapter 20 who is currently employed by the State of Iowa as a Motor Vehicle Enforcement Officer and is classified as a “Public Safety Employee” under the Amendments. Officer De Vries is a member of a bargaining unit represented by AFSCME, but “Public Safety Employees” do not constitute at least thirty percent of the unit members.

5. Plaintiff Susan Baker (“Ms. Baker”), an AFSCME member, is a public employee as defined by Chapter 20 who is currently employed by the State of Iowa as a Drafter. Ms. Baker is not classified as a “Public Safety Employee” under the Amendments. Ms. Baker is a member of a bargaining unit represented by AFSCME, but “Public Safety Employees” do not constitute at least

thirty percent of the unit members.

6. Defendant State of Iowa ("State") is a public employer as defined by Chapter 20.

7. Defendant State Court Administrator ("Judicial Branch") is a public employer as defined by Chapter 20.

8. Defendant Iowa Public Employment Relations Board ("PERB") is the agency responsible for administering Chapter 20.

9. This Court has jurisdiction over the parties hereto, as all parties are residents of the State of Iowa.

10. This Court, as a court of general jurisdiction, has jurisdiction over the subject matter of this lawsuit.

11. Venue is proper in this Court pursuant to Iowa Code § 616.3 as the unconstitutional and unlawful actions of Defendants giving rise to the causes of action set forth herein arose in whole or in substantial part in Polk County, Iowa.

12. This action challenges the constitutionality of Amendments to Chapter 20 and as such the exhaustion of remedies through the PERB would be futile and unnecessary.

FACTS AND ALLEGATIONS

13. Chapter 20 sets forth Iowa's system of public sector employee representation and collective bargaining.

14. For purposes of Chapter 20, AFSCME is the exclusive bargaining representative for State employees employed by the Judicial Branch and by the State. Homan Affidavit Exhibits A and B specifically identify the bargaining units represented by AFSCME.

15. The collective bargaining agreements between AFSCME and the Judicial Branch

expire on June 30, 2017, and bargaining between AFSCME and the Judicial Branch over new collective bargaining agreements subject to Chapter 20 began in November 2016. See Homan Affidavit.

16. The collective bargaining agreements between AFSCME and the State expire on June 30, 2017, and bargaining between AFSCME and the State over new collective bargaining agreements subject to Chapter 20 began in November 2016. See Homan Affidavit.

17. In accordance with Chapter 20, AFSCME entered into contracts with both the Judicial Branch and the State concerning the scheduling and procedures which would be utilized in the negotiation process including binding arbitration (the “Negotiation Contracts”). See Homan Affidavit Exhibits C and D.

18. On February 16, 2017, the Iowa Legislature passed H.F. 291, which substantially amends Chapter 20. Governor Branstad signed H.F. 291 on February 17, 2017. These Amendments can only be described as draconian, significantly altering a law that had been in existence for over 40 years, eliminating some public employee rights, restricting other public employee rights and, among other changes, making it almost impossible for public employees to secure and maintain representation through an employee organization. See Homan Affidavit Exhibit E.

19. One of the significant changes made by the Amendments is the creation of two classes of public employees: “Public Safety Employees” and other public employees.

20. Just as significantly, the Amendments establish two classes of public employee bargaining units: a favored class in which at least thirty percent of bargaining unit members are “Public Safety Employees” (“Favored Units”) and a disfavored class in which “Public Safety

Employees” are less than thirty percent of members (“Disfavored Units”).

21. Article I, section 6 of the Constitution of the state of Iowa requires that “all laws of a general nature shall have a uniform operation” and that the legislature “shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.” The Amendments to Chapter 20 violate this constitutional guarantee.

22. The Amendments grant “Public Safety Employees” who belong to Favored Units privileges in collective bargaining that are not shared by other similarly situated “Public Safety Employees” who belong to Disfavored Units.

23. The Amendments also grant certain “Non Public Safety Employees” who belong to a Favored Units privileges in collective bargaining that are not shared by other similarly situated “Non Public Safety Employees” who belong to Disfavored Units.

24. Moreover, the class of “Public Safety Employees” as set forth in the Amendments to Chapter 20 is arbitrarily defined as it excludes similarly-situated public employees without a legitimate basis.

25. In addition, the Amendments withdraw from certain “Public Safety Employees” and certain “Non Public Safety Employees” collective bargaining privileges previously held by those employees such that they have no effective ability to collectively bargain, but other similarly situated “Public Safety Employees” and “Non Public Safety Employees” retain most of their bargaining rights. Only those public employees who belong to the Favored Units retain most of their bargaining rights.

26. The Amendments to Chapter 20 include “Transition Procedures” that alter and

terminate bargaining procedures and schedules established in the Negotiation Agreements identified in paragraph 17.

27. AFSCME represents, and is certified as the exclusive bargaining representative of both “Public Safety Employees” and other public employees.

28. AFSCME represents, and is the certified exclusive bargaining representative of various, bargaining units, some of which are Disfavored Units that have lesser collective bargaining privileges than Favored Units.

29. Despite the responsibilities and risks of his job as a Corrections Officer, Officer Good is not classified as a “Public Safety Employee,” and due to his membership in a Disfavored Unit, Officer Good has lesser bargaining privileges than those similarly situated public employees who are placed in Favored Units.

30. Despite the responsibilities and risks of his job as a Police Officer III, Officer De Vries is a member of a Disfavored Unit, and, therefore, has lesser bargaining privileges than similarly situated public employees who are in Favored Units.

31. Officer Kinney, as a Motor Vehicle Enforcement Officer, is classified as a “Public Safety Employee” under the Amendments, but is a member of a Disfavored Unit, and, therefore has lesser bargaining privileges than similarly situated public employees who are in Favored Units.

32. Ms. Baker is not classified as a “Public Safety Employee” under the Amendments, and, because she is in a Disfavored Unit, she has lesser bargaining privileges than similarly situated public employees who are in a Favored Unit.

COUNT I

THE AMENDMENTS VIOLATE ARTICLE I, SECTION 6 OF THE IOWA CONSTITUTION

33. Plaintiff repeats and re-alleges the foregoing allegations asserted in Paragraphs 1 through 32 as if set forth fully herein.

34. The Amendments to Chapter 20 are inconsistent with and in direct violation of Article I, § 6 of the Iowa Constitution which requires, “all laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.”

35. The legislative classifications in the Amendments deprive AFSCME, its public employee members and those public employees for whom it is the exclusive bargaining representative of the guaranty of equality of all before the law that is set forth in Art. I, § 6 of the Iowa Constitution.

36. The arbitrary definition of “Public Safety Employee,” the arbitrary classification of public employees as “Public Safety Employees” or other public employees and the arbitrary classification of bargaining units into those whose members are at least thirty percent “Public Safety Employees” and those whose members are not which are included in the Amendments deprive Officer Good, Officer De Vries, and Ms. Baker of the constitutional guaranty of equality of all before the law that is set forth in Art. I, § 6 of the Iowa Constitution.

COUNT II

THE AMENDMENTS VIOLATE ARTICLE 1, SECTION 20 OF THE IOWA CONSTITUTION

37. Plaintiff repeats and re-alleges the foregoing allegations asserted in Paragraphs 1 through 36 as if set forth fully herein.

38. The Amendments to Chapter 20 include "Transition Procedures" that alter and terminate bargaining procedures and schedules established in the Negotiation Contracts identified in paragraph 17 and are inconsistent with and in direct violation of Article 1, § 21 of the Iowa Constitution which prohibits a "... law from impairing the obligation of contracts... ."

TEMPORARY AND PERMANENT INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT

39. Plaintiff repeats and re-alleges the foregoing allegations asserted in Paragraphs 1 through 38 as if set forth fully herein.

40. The matter at hand is appropriate for injunctive relief pursuant to Iowa Rule of Civil Procedure 1.1106 and 1.1501.

41. The matter at hand is appropriate for declaratory relief pursuant to Iowa Rule of Civil Procedure 1.1101 through 1.1102 and granting such relief would terminate the legal dispute that has given rise to this petition.

42. Plaintiffs will be greatly and irreparably injured and harmed unless relief is granted as shown by the Affidavit of Danny Homan.

43. Plaintiffs are likely to succeed on the merits of their claim.

44. A balancing of the equities favors the issuance of injunctive relief and declaratory judgment against the defendants.

45. Plaintiffs have no other available adequate remedy at law.

WHEREFORE, Plaintiffs respectfully request that judgment be entered against Defendants for Temporary and Permanent Injunctive Relief and Declaratory Judgment causes of action. Furthermore, declare that Amendments identified in paragraphs 18 through 20 and 22 through

25 are inconsistent with and in direct violation of Article I, § 6 of the Iowa Constitution and are null and void.

Further, that this Court temporarily and permanently enjoin the application of the Amendments identified in paragraphs 26, which impair the bargaining procedures and schedules established in the Negotiation Contracts identified in paragraph 17.

Finally, that this Court stay the PERB from acting upon or administrating the offensive Amendments until such time as the Court rules upon the constitutionality of those Amendments and for all such other and further relief that the Court deems fit under the circumstances, including costs of this action.



MARK T. HEDBERG AT0003285



SARAH M. BAUMGARTNER AT0012177

100 Court Avenue, Suite 425
Des Moines, IA 50309
(515) 288-4148
Fax: (515) 288-4149
mark@hedberglaw.com
nboulton@hedberglaw.com
sarah@hedberglaw.com

ATTORNEYS FOR PLAINTIFFS