

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	6

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1091, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Replace the effective date in SECTION 1 with "[EFFECTIVE
- 2 SEPTEMBER 1, 1998]".
- 3 Page 3, delete lines 22 through 42.
- 4 Delete pages 4 through 6, begin a new paragraph and insert:
- 5 "SECTION 2. IC 36-8-20 IS ADDED TO THE INDIANA CODE
- 6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 7 SEPTEMBER 1, 1998]:
- 8 **Chapter 20. Meet and Confer for Local Government**
- 9 **Employers and Public Safety Employees**
- 10 **Sec. 1. It is the purpose of this chapter to promote full**
- 11 **communication between employers and their public safety**
- 12 **employees concerning questions of wages, hours of employment,**
- 13 **and other terms and conditions of the employment of public safety**

1 employees. It is also the purpose of this chapter to improve
2 relations between employers and public safety employees.

3 Sec. 2. (a) This chapter does not apply to an employer that has
4 adopted by ordinance, resolution, charter, amendment, or
5 executive order provisions and procedures that permit an
6 employee to form, join, or assist an employee organization for the
7 purpose of bargaining collectively.

8 (b) This chapter may not be construed to annul, modify, or
9 limit a collective bargaining agreement or memorandum of
10 understanding entered into between an employer and a
11 representative before September 1, 1998.

12 (c) This chapter does not apply to a unit having a population
13 of less than five thousand (5,000).

14 Sec. 3. As used in this chapter, "employee" means a full-time
15 employee of a police or fire department. The term does not include
16 a person in an upper level policy making position (as defined in
17 IC 36-8-1-12).

18 Sec. 4. As used in this chapter, "employee organization" means
19 an organization that includes employees as members and has a
20 primary purpose to represent the members of the organization on
21 issues concerning grievances, wages, rates of pay, hours of
22 employment, or conditions of employment.

23 Sec. 5. As used in this chapter, "employer" means a unit (as
24 defined in IC 36-1-2-23).

25 Sec. 6. As used in this chapter, "recognized representative"
26 means an employee organization selected under section 7 of this
27 chapter.

28 Sec. 7. (a) An employee organization is the recognized
29 representative of the employees of an employer if:

30 (1) the employee organization was recognized by the
31 employer before September 1, 1998, as the sole
32 representative of the employer's employees; or

33 (2) after August 31, 1998, the employee organization is
34 elected to be the sole representative under subsection (c).

35 (b) After August 31, 1998, an employer shall conduct an
36 election if thirty percent (30%) of the employees of the employer
37 sign a petition requesting an election to determine a recognized
38 representative. The election shall be conducted at least thirty (30)

1 but not more than sixty (60) days after the employer receives a
2 petition under this subsection.

3 (c) An employee organization is the sole recognized
4 representative of the employees of an employer if it receives more
5 than fifty percent (50%) of the votes cast in an election under
6 subsection (b).

7 **Sec. 8. (a) All employees have the right to meet and freely
8 assemble to discuss their interests as employees and to form, join,
9 and assist an employee organization.**

10 (b) The rights guaranteed under subsection (a) include the
11 right to solicit membership, to join employee organizations to
12 present their views, and to have dues deducted and submitted to
13 the recognized representative.

14 **Sec. 9. This chapter is not intended to circumscribe or modify
15 the existing right of an employer to:**

- 16 (1) direct the work of the employer's employees;
- 17 (2) hire, promote, demote, transfer, assign, and retain
18 employees;
- 19 (3) suspend, discharge, or otherwise discipline employees for
20 just cause;
- 21 (4) maintain the efficiency of governmental operations;
- 22 (5) relieve employees from duties because of lack of work or
23 for other legitimate reasons; and
- 24 (6) take actions that may be necessary to carry out the
25 mission of the employer in emergencies.

26 **Sec. 10. Employers may not do the following:**

- 27 (1) Interfere with, restrain, or coerce employees in the
28 exercise of the rights guaranteed under this chapter.
- 29 (2) Dominate, interfere with, or assist in the formation or
30 administration of an employee organization, or contribute
31 financial or other support to the employee organization.
32 However, an employer may permit employees to meet and
33 confer and represent the interests of bargaining during
34 working hours without loss of time or pay.
- 35 (3) Discriminate in regard to hiring or conditions of
36 employment to encourage or discourage membership in an
37 employee organization.
- 38 (4) Discharge or otherwise discriminate against an employee

1 because the employee has filed a complaint, an affidavit, or
2 a petition, or given information or testified under this
3 chapter.

4 (5) Refuse to meet and confer in good faith with recognized
5 representatives.

6 Sec. 11. (a) An employee organization or the recognized
7 representative of the employees of an employer that elects to meet
8 and confer with an employer must notify the employer in writing
9 that the employee organization intends to exercise its rights under
10 this chapter.

11 (b) Except as provided by section 13 of this chapter, an
12 employer who has received a written notice under subsection (a)
13 shall meet and confer in good faith with the employee organization,
14 or the recognized representative if a recognized representative has
15 been elected under this chapter, at reasonable times, including
16 meeting in advance of the budget making process, to discuss issues
17 and proposals regarding wages, hours of employment, and other
18 conditions and terms of employment.

19 (c) If an agreement is reached between the parties under
20 subsection (b), the parties shall execute a written agreement
21 incorporating the terms of the agreement. At the request of either
22 party, an agreement shall provide procedures for the settlement of
23 a question arising under the agreement.

24 Sec. 12. (a) As used in this section, "deficit financing" means
25 expenditures that exceed the money legally available to the
26 employer in any budget year.

27 (b) An employer may not enter into an agreement under
28 section 11 of this chapter that will place the employer in a position
29 of deficit financing. An agreement or collective bargaining contract
30 is voidable to the extent that an employer must engage in deficit
31 financing in order to comply with the terms of the contract.

32 Sec. 13. (a) An employer is not required to meet and confer
33 with an employee organization under this chapter unless the
34 employee organization has notified the employer in writing before
35 September 1, 2000, that the employee organization elects to
36 exercise its rights under this chapter.

37 (b) Notwithstanding subsection (a), after August 31, 2000, an
38 employer may elect to meet and confer and enter into an

1 agreement under section 11 of this chapter even if the employer did
 2 not receive a written notice from an employee organization before
 3 September 1, 2000.

4 (c) Notwithstanding any provision of this chapter, an employer
 5 may elect to terminate its duty to meet and confer under this
 6 chapter if:

7 (1) after meeting and conferring with an employee
 8 organization under section 11 of this chapter the employer
 9 and the employee organization are unable to reach a written
 10 agreement under this chapter; and

11 (2) at least two-thirds (2/3) of the members of the legislative
 12 body of the unit vote to terminate the employer's duty to
 13 meet and confer under this chapter and written notice of the
 14 action of the legislative body is given to the employee
 15 organization.

16 Sec. 14. (a) An employee or employee organization may not
 17 participate in a strike against an employer.

18 (b) An employee engaging in a strike is subject to discharge by
 19 the employer under IC 36-8-3-4.

20 (c) A recognized representative that engages in or sanctions a
 21 strike loses the right to represent the employees for one (1) year
 22 from the date of the action.

23 (d) An employer may not pay an employee for days the
 24 employee was engaged in a strike.

25 Sec. 15. The term of any written agreement entered into under
 26 this chapter may not exceed forty-eight (48) months.

27 SECTION 3. [EFFECTIVE SEPTEMBER 1, 1998] (a) This act
 28 does not:

29 (1) apply to or abrogate a contract or an agreement in effect
 30 on August 31, 1998; or

31 (2) preclude arbitration on a provision in the contract or
 32 agreement.

33 (b) This SECTION expires September 1, 2001.

1 SECTION 4. [EFFECTIVE SEPTEMBER 1, 1998] **The**
2 **provisions of this act are severable in the manner provided by**
3 **IC 1-1-1-8(b).**"

(Reference is to HB 1091 as introduced.)

and when so amended that said bill do pass.

Representative Liggett