

HOUSE BILL No. 1091

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-1.5-2; IC 36-8-20.

Synopsis: Meet and confer. Requires a unit (a city, town, township, or county) to meet and confer with the recognized representative of the unit's public safety employees concerning wages, hours of employment, and other conditions of employment. Exempts units with a population of less than 5,000. Provides that a public safety employee may not engage in a strike. Provides that an agreement between an employer and an employee organization may not require a unit to engage in deficit financing. Provides that an agent designated by a unit to meet and confer with an employee representative is not a governing body for open door law purposes.

Effective: July 1, 1998.

Tabaczynski

January 6, 1998, read first time and referred to Committee on Labor and Employment.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

HOUSE BILL No. 1091

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-1.5-2, AS AMENDED BY P.L.50-1995,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 2. For the purposes of this chapter:
4 (a) "Public agency" means the following:
5 (1) Any board, commission, department, agency, authority, or
6 other entity, by whatever name designated, exercising a portion of
7 the executive, administrative, or legislative power of the state.
8 (2) Any county, township, school corporation, city, town, political
9 subdivision, or other entity, by whatever name designated,
10 exercising in a limited geographical area the executive,
11 administrative, or legislative power of the state or a delegated
12 local governmental power.
13 (3) Any entity which is subject to either:
14 (A) budget review by either the state board of tax
15 commissioners or the governing body of a county, city, town,
16 township, or school corporation; or
17 (B) audit by the state board of accounts.

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- 1 (4) Any building corporation of a political subdivision of the state
 2 of Indiana that issues bonds for the purpose of constructing public
 3 facilities.
- 4 (5) Any advisory commission, committee, or body created by
 5 statute, ordinance, or executive order to advise the governing
 6 body of a public agency, except medical staffs or the committees
 7 of any such staff.
- 8 (6) The Indiana gaming commission established by IC 4-33,
 9 including any department, division, or office of the commission.
- 10 (7) The Indiana horse racing commission established by IC 4-31,
 11 including any department, division, or office of the commission.
- 12 (b) "Governing body" means two (2) or more individuals who are:
 13 (1) a public agency that:
 14 (A) is a board, a commission, an authority, a council, a
 15 committee, a body, or other entity; and
 16 (B) takes official action on public business;
 17 (2) the board, commission, council, or other body of a public
 18 agency which takes official action upon public business; or
 19 (3) any committee appointed directly by the governing body or its
 20 presiding officer to which authority to take official action upon
 21 public business has been delegated.
- 22 An agent or agents appointed by a school corporation to conduct
 23 collective bargaining on behalf of that school corporation **or**
 24 **designated by a unit (as defined in IC 36-1-2-23) to meet and confer**
 25 **with an employee representative under IC 36-8-20** does not
 26 constitute a governing body for purposes of this chapter.
- 27 (c) "Meeting" means a gathering of a majority of the governing body
 28 of a public agency for the purpose of taking official action upon public
 29 business. It does not include:
 30 (1) any social or chance gathering not intended to avoid this
 31 chapter;
 32 (2) any on-site inspection of any project or program;
 33 (3) traveling to and attending meetings of organizations devoted
 34 to betterment of government; or
 35 (4) a caucus.
- 36 (d) "Official action" means to:
 37 (1) receive information;
 38 (2) deliberate;
 39 (3) make recommendations;
 40 (4) establish policy;
 41 (5) make decisions; or
 42 (6) take final action.



1 (e) "Public business" means any function upon which the public
2 agency is empowered or authorized to take official action.

3 (f) "Executive session" means a meeting from which the public is
4 excluded, except the governing body may admit those persons
5 necessary to carry out its purpose.

6 (g) "Final action" means a vote by the governing body on any
7 motion, proposal, resolution, rule, regulation, ordinance, or order.

8 (h) "Caucus" means a gathering of members of a political party or
9 coalition which is held for purposes of planning political strategy and
10 holding discussions designed to prepare the members for taking official
11 action.

12 (i) "Deliberate" means a discussion which may reasonably be
13 expected to result in official action (defined under subsection (d)(3),
14 (d)(4), (d)(5), or (d)(6)).

15 (j) "News media" means all newspapers qualified to receive legal
16 advertisements under IC 5-3-1, all news services (as defined in
17 IC 34-4-15-3), and all licensed commercial or public radio or television
18 stations.

19 (k) "Person" means an individual, a corporation, a limited liability
20 company, a partnership, an unincorporated association, or a
21 governmental entity.

22 SECTION 2. IC 36-8-20 IS ADDED TO THE INDIANA CODE
23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 1998]:

25 **Chapter 20. Meet and Confer for Local Government**
26 **Employers and Public Safety Employees**

27 **Sec. 1. It is the purpose of this chapter to promote full**
28 **communication between employers and their public safety**
29 **employees concerning questions of wages, hours of employment,**
30 **and other terms and conditions of the employment of public safety**
31 **employees. It is also the purpose of this chapter to improve**
32 **relations between employers and public safety employees.**

33 **Sec. 2. (a) This chapter does not apply to an employer that**
34 **before July 1, 1998, adopted by ordinance, resolution, charter,**
35 **amendment, or executive order provisions and procedures that**
36 **permit an employee to form, join, or assist an employee**
37 **organization for the purpose of bargaining collectively or meeting**
38 **and conferring through recognized representatives.**

39 **(b) This chapter may not be construed to annul, modify, or**
40 **limit a collective bargaining agreement or memorandum of**
41 **understanding entered into between an employer and a**
42 **representative before July 1, 1998.**



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

3 Sec. 3. As used in this chapter, "employee" means a full-time
4 employee of a police or fire department. The term does not include
5 a person in an upper level policy making position (as defined in
6 IC 36-8-1-12), except a person in an upper level policy making
7 position included in an agreement in effect on July 1, 1999.

8 Sec. 4. As used in this chapter, "employee organization" means
9 an organization that includes employees as members and has a
10 primary purpose to represent the members of the organization on
11 issues concerning grievances, wages, rates of pay, hours of
12 employment, or conditions of employment.

13 Sec. 5. (a) As used in this chapter, "employer" means the
14 following:

15 (1) Except as provided in section 2(c) of this chapter, a unit
16 (as defined in IC 36-1-2-23).

17 (2) A person designated by the unit to act in the unit's
18 interests in dealing with employees.

19 Sec. 6. As used in this chapter, "recognized representative"
20 means an employee organization that:

21 (1) is recognized as the sole representative of employees by
22 the employees and the employer; or

23 (2) was recognized before July 1, 1998, as the representative
24 of employees.

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

28 (b) The rights guaranteed under subsection (a) include the
29 right to solicit membership, to join employee organizations to
30 present their views, and to have dues deducted and submitted to
31 the recognized representative.

32 Sec. 8. This chapter is not intended to circumscribe or modify
33 the existing right of an employer to:

34 (1) direct the work of the employer's employees;

35 (2) hire, promote, demote, transfer, assign, and retain
36 employees in positions;

37 (3) suspend, discharge, or otherwise discipline employees for
38 just cause;

39 (4) maintain the efficiency of governmental operations;

40 (5) relieve employees from duties because of lack of work or
41 for other legitimate reasons; and

42 (6) take actions that may be necessary to carry out the



1 mission of the employer in emergencies.

2 **Sec. 9. Employers may not do the following:**

3 (1) Interfere with, restrain, or coerce employees in the
4 exercise of the rights guaranteed under this chapter.

5 (2) Dominate, interfere with, or assist in the formation or
6 administration of an employee organization, or contribute
7 financial or other support to the employee organization.
8 However, an employer may permit employees to meet and
9 confer and represent the interests of bargaining during
10 working hours without loss of time or pay.

11 (3) Discriminate in regard to hiring or conditions of
12 employment to encourage or discourage membership in an
13 employee organization.

14 (4) Discharge or otherwise discriminate against an employee
15 because the employee has filed a complaint, affidavit,
16 petition, or given information or testified under this chapter.

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

19 **Sec. 10. (a) The employer shall meet and confer in good faith**
20 **with the employee organization at reasonable times, including**
21 **meeting in advance of the budget-making process, to discuss issues**
22 **and proposals regarding wages, hours of employment, and other**
23 **conditions and terms of employment.**

24 (b) When a proposal is presented by a recognized
25 representative, the employer shall meet, confer, and discuss the
26 proposal with the recognized representative. If an agreement is
27 reached between the parties, the parties shall execute a written
28 agreement incorporating the terms of the agreement. At the
29 request of either party, an agreement shall provide procedures for
30 the settlement of a question arising under the agreement.

31 **Sec. 11. (a) As used in this section, "deficit financing" means**
32 **expenditures that exceed the money legally available to the**
33 **employer in any budget year.**

34 (b) An employer may not enter into an agreement under
35 section 10 of this chapter or a collective bargaining contract that
36 will place the employer in a position of deficit financing. An
37 agreement or collective bargaining contract is void to the extent
38 that the contract requires the employer to engage in deficit
39 financing.

40 (c) A contract executed between an employer and an
41 individual employee is void to the extent that the individual
42 contract is executed in conformity with a written agreement or



1 collective bargaining contract that is void under this section.

2 **Sec. 12. (a) An employee or recognized representative may not**
 3 **participate in a strike against an employer.**

4 **(b) An employee engaging in a strike is subject to discharge by**
 5 **the employer as provided in IC 36-8-3-4.**

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

9 **(d) An employer may not pay an employee for days the**
 10 **employee was engaged in a strike.**

11 **SECTION 3. [EFFECTIVE JULY 1, 1998] (a) This act does not:**

12 **(1) apply to or abrogate a contract or an agreement in effect**
 13 **on June 30, 1998; or**

14 **(2) preclude arbitration on a provision in the contract or**
 15 **agreement.**

16 **(b) This SECTION expires July 1, 2001.**

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

