

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 508 be amended to read as follows:

- 1 Page 3, between lines 21 and 22, begin a new paragraph and insert:
- 2 "SECTION 2. IC 5-28 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
- 4 PASSAGE]:
- 5 **ARTICLE 28. COLLECTIVE BARGAINING**
- 6 **Chapter 1. Definitions**
- 7 **Sec. 1. The definitions of this chapter apply throughout this**
- 8 **article.**
- 9 **Sec. 2. "Bargaining unit" means classes or groups of jobs or**
- 10 **positions that are held by employees whose collective interests may**
- 11 **be suitably represented by an employee organization for collective**
- 12 **bargaining.**
- 13 **Sec. 3. "Confidential employee" means an employee:**
- 14 **(1) who works in the personnel office of the employer;**
- 15 **(2) who has access to confidential or discretionary**
- 16 **information that may be used by the employer in negotiating**
- 17 **a collective bargaining agreement under this article;**
- 18 **(3) who works in a close and continuing working relationship**
- 19 **with:**
- 20 **(A) an individual holding elective office; or**
- 21 **(B) individuals who represent the employer in**
- 22 **negotiations under this article;**
- 23 **(4) whose:**
- 24 **(A) functional responsibilities; or**
- 25 **(B) knowledge;**
- 26 **concerning employee relations makes the employee's**
- 27 **membership in an employee organization incompatible with**
- 28 **the employee's duties; or**
- 29 **(5) who is a personal secretary of:**

- 1 (A) the chief administrative or executive officer of an
- 2 agency;
- 3 (B) a deputy or assistant to the chief administrative or
- 4 executive officer of an agency; or
- 5 (C) an individual holding elected office.

6 Sec. 4. "Employee" means an individual who is employed by
7 the employer, unless the individual is any of the following:

- 8 (1) An intermittent, temporary, or student employee.
- 9 (2) A member of a board or commission.
- 10 (3) A confidential employee.
- 11 (4) A supervisor.
- 12 (5) A managerial employee.
- 13 (6) A patient or resident of a state institution.
- 14 (7) An individual in the custody of the department of
- 15 correction or any law enforcement agency.
- 16 (8) The chief administrative or executive officer of an agency.
- 17 (9) An attorney whose responsibilities include the providing
- 18 of legal advice or the performance of legal research.
- 19 (10) A physician or a dentist.
- 20 (11) An administrative law judge.
- 21 (12) An individual who performs internal investigations.
- 22 (13) Teachers at state institutions whose compensation is
- 23 determined under any of the following:
- 24 (A) IC 11-10-5-4.
- 25 (B) IC 12-24-3-4.
- 26 (C) IC 16-19-6-7.

27 Sec. 5. "Employee organization" means an organization:

- 28 (1) in which employees participate; and
- 29 (2) that exists for the purpose of dealing with the employer
- 30 concerning wages, hours, settlement of grievances, and other
- 31 terms and conditions of employment.

32 Sec. 6. (a) "Employer" means the executive branch.

33 (b) The term does not include any of the following:

- 34 (1) The senate, the house of representatives, the legislative
- 35 services agency, and any commission or agency of the
- 36 legislative department of the state.
- 37 (2) The judicial department of government, including any
- 38 commission or agency of the judicial department.
- 39 (3) A school corporation.
- 40 (4) Unless specifically included under section 8 of this
- 41 chapter, the office of an individual holding an elected office.
- 42 (5) Bodies corporate and politic.
- 43 (6) The budget agency.
- 44 (7) Uniformed members of the national guard.
- 45 (8) The state personnel department.
- 46 (9) The PERB.
- 47 (10) The education employment relations board.
- 48 (11) The state board of accounts.
- 49 (12) A state educational institution (as defined in
- 50 IC 20-12-0.5-1).

51 Sec. 7. "Exclusive bargaining representative" means an

1 employee organization that has been certified as the result of a
 2 representation proceeding under IC 5-28-5 to be the sole
 3 representative of the members of a bargaining unit.

4 **Sec. 8. "Executive branch" means the following:**

5 (1) Those agencies (as defined by IC 4-22-2-3) under the
 6 direct authority of the governor.

7 (2) Those agencies under the direct authority of any other
 8 elected state officer electing coverage under IC 5-28-3.

9 **Sec. 9. "Intervening employee organization" means an**
 10 **employee organization that demonstrates to the PERB a showing**
 11 **of interest of at least ten percent (10%) of the members of a**
 12 **bargaining unit with thirty (30) days notice of a representation**
 13 **proceeding.**

14 **Sec. 10. "Managerial employee" means an individual who is:**

15 (1) engaged predominantly in executive and management
 16 functions; or

17 (2) charged with the responsibility of directing the
 18 effectuation of management policies and practices.

19 **Sec. 11. "PERB" refers to the public employees relations**
 20 **board established by IC 5-28-2-1.**

21 **Sec. 12. "Strike" means an employee's:**

22 (1) refusal to report to duty;

23 (2) willful absence from the employee's assigned work area;

24 (3) stoppage of work; or

25 (4) abstinence in whole or in part, from the full, faithful, and
 26 proper performance of the employee's duties of employment;

27 **in concerted action with other persons or employees without the**
 28 **lawful approval of the employer.**

29 **Sec. 13. "Supervisor" means an individual having authority in**
 30 **the interest of the employer to:**

31 (1) hire, transfer, suspend, lay off, recall, promote, discharge,
 32 assign, reward, or discipline other employees;

33 (2) adjust employee grievances; or

34 (3) effectively recommend any of the actions in subdivision
 35 (1) or (2);

36 **if the exercise of the authority is not merely of a routine or clerical**
 37 **nature, but requires the use of independent judgment.**

38 **Sec. 14. "Temporary employee" means an individual who is**
 39 **employed in a temporary position for not more than ninety (90)**
 40 **days.**

41 **Chapter 2. Public Employees Relations Board**

42 **Sec. 1. The public employees relations board is established.**

43 **Sec. 2. (a) The PERB has five (5) members who are appointed**
 44 **by the governor.**

45 **(b) A PERB member may not:**

46 (1) be a representative of or be employed by an employee
 47 organization or an affiliate of an employee organization; or

48 (2) hold any other public office.

49 **(c) The term of each member is four (4) years.**

50 **Sec. 3. A vacancy on the PERB shall be filled by the governor.**

1 **Sec. 4. The governor shall designate a PERB member to serve**
 2 **as the chairperson.**

3 **Sec. 5. A majority of the PERB members constitutes a quorum.**

4 **Sec. 6. The PERB shall do the following:**

5 **(1) Conduct elections under this article.**

6 **(2) Make determinations concerning exclusive bargaining**
 7 **representatives and representation matters under this article.**

8 **(3) Resolve issues that may arise under this article.**

9 **Sec. 7. The PERB may adopt rules under IC 4-22-2 to carry**
 10 **out this article.**

11 **Sec. 8. The education employment relations board shall**
 12 **provide staff assistance needed by the PERB.**

13 **Chapter 3. Opt In**

14 **Sec. 1. (a) An elected state officer may elect to have the**
 15 **officer's employees to be subject to the article by submitting a**
 16 **written notice to the PERB.**

17 **(b) The notice must be consistent with the provisions of this**
 18 **article and may not include employees otherwise excluded.**

19 **(c) The notice must indicate the agencies or groups of**
 20 **employees for whom the officer is electing inclusion.**

21 **Chapter 4. Bargaining Units**

22 **Sec. 1. An employee must be included under one (1) of the**
 23 **eleven (11) bargaining units as follows:**

24 **(1) Labor, trades, and crafts classes, including the following:**

25 **(A) Carpenters.**

26 **(B) Electricians.**

27 **(C) Plumbers.**

28 **(D) Print shop workers.**

29 **(E) Auto mechanics.**

30 **(F) Maintenance workers.**

31 **(G) Similar classes.**

32 **(2) Administrative and technical support that includes**
 33 **clerical and administrative nonprofessional classes, including**
 34 **the following:**

35 **(A) Typists.**

36 **(B) Secretaries.**

37 **(C) Account clerks.**

38 **(D) Computer operators.**

39 **(E) Office service personnel.**

40 **(F) Personnel who provide support services to**
 41 **professionals.**

42 **(G) Other nonprofessional employees who do not meet**
 43 **the standards of other nonprofessional units.**

44 **(3) Regulatory, inspection, and licensure nonprofessionals**
 45 **that include individuals who review public and commercial**
 46 **activities, including the following:**

47 **(A) Tax examiners.**

48 **(B) Driver's license examiners.**

49 **(C) Meat inspectors.**

50 **(D) Similar classes.**

- 1 **(4) Health and human services nonprofessionals, including**
2 **the following:**
3 **(A) Licensed practical nurses.**
4 **(B) Nursing aides.**
5 **(C) Psychiatric attendants.**
6 **(D) Therapy aides.**
7 **(E) Claims takers.**
8 **(F) Similar classes.**
9 **(5) Regulatory, inspection, and licensure professional**
10 **employees empowered to review certain public and**
11 **commercial activities, including the following:**
12 **(A) Revenue auditors.**
13 **(B) Bank and insurance examiners.**
14 **(C) Public health inspectors.**
15 **(D) Similar classes.**
16 **(6) Health care professionals, including the following:**
17 **(A) Registered nurses.**
18 **(B) Pharmacists.**
19 **(C) Licensed therapists.**
20 **(D) Similar classes.**
21 **(7) Social services and counseling professionals who provide**
22 **services and benefits to eligible persons, including the**
23 **following:**
24 **(A) Employment and training personnel.**
25 **(B) Welfare caseworkers.**
26 **(C) Social workers.**
27 **(D) Counselors.**
28 **(E) Similar classes.**
29 **(8) Engineering, scientific, and information services**
30 **professionals, including the following:**
31 **(A) Architects.**
32 **(B) Chemists.**
33 **(C) Geologists.**
34 **(D) Civil engineers.**
35 **(E) Computer programmers.**
36 **(F) System analysts.**
37 **(G) Similar classes.**
38 **(9) Professional administrative employees with general**
39 **business responsibilities, including the following:**
40 **(A) Accountants.**
41 **(B) Buyers.**
42 **(C) Administrators.**
43 **(D) Other professional employees who do not meet the**
44 **standards of the other professional units.**
45 **(10) Public safety, protective service workers, and**
46 **institutional security employees, including the following:**
47 **(A) Correctional officers.**
48 **(B) Building guards.**
49 **(C) Firefighters.**
50 **(D) Motor carrier inspectors of the state police**

- 1 **department.**
- 2 **(E) Similar classes.**
- 3 **(11) Sworn police officers, including the following:**
- 4 **(A) Law enforcement officers of the state police**
- 5 **department.**
- 6 **(B) Conservation officers of the department of natural**
- 7 **resources.**
- 8 **(C) Excise police of the alcohol and tobacco commission.**
- 9 **Sec. 2. The director of the state personnel department shall**
- 10 **determine the assignment of each employee, including the**
- 11 **employees of state officers electing coverage under IC 5-28-3, to a**
- 12 **bargaining unit under section 1 of this chapter based on the**
- 13 **employee's job classification and position.**
- 14 **Sec. 3. In determining the appropriateness of the assignment**
- 15 **of an employee to a unit in section 1 of this chapter, the director of**
- 16 **the state personnel department shall consider the following:**
- 17 **(1) The principles of efficient administration of government,**
- 18 **including limiting the fragmentation of government**
- 19 **administrative authority.**
- 20 **(2) The existence of a community of interest among the**
- 21 **employees assigned to the bargaining unit.**
- 22 **(3) The recommendations of the parties involved.**
- 23 **Sec. 4. Each bargaining unit under this chapter must be**
- 24 **established on a statewide basis.**
- 25 **Chapter 5. Representation Proceedings**
- 26 **Sec. 1. The certification of an employee organization as the**
- 27 **exclusive bargaining representative of a bargaining unit may be**
- 28 **held under this chapter.**
- 29 **Sec. 2. An employee organization may file a petition for a**
- 30 **representation proceeding with the PERB and must include a**
- 31 **showing of interest of at least thirty percent (30%) of the employees**
- 32 **within a bargaining unit.**
- 33 **Sec. 3. (a) Not more than fifteen (15) days after a**
- 34 **determination that a valid petition has been submitted, the PERB**
- 35 **shall notify interested employee organizations of a proceeding**
- 36 **under this chapter.**
- 37 **(b) Any intervening employee organization must file a petition**
- 38 **of intervention with the PERB.**
- 39 **Sec. 4. The PERB shall, not more than thirty (30) days after**
- 40 **the filing of a petition under this chapter, issue an order**
- 41 **determining the appropriateness of the assignment of an employee**
- 42 **to a bargaining unit under section 1 of this chapter, if applicable,**
- 43 **and where appropriate, direct that an election be held under this**
- 44 **chapter within a reasonable time as specified in the PERB's rules.**
- 45 **Sec. 5. (a) A representation proceeding held under this**
- 46 **chapter:**
- 47 **(1) must be by secret ballot;**
- 48 **(2) may not be held unless at least one (1) year has elapsed**
- 49 **since the most recent previous valid election was held for the**
- 50 **bargaining unit; and**

1 **(3) may not be held while a bargaining agreement is in effect.**

2 **(b) The PERB and the employer shall provide employees a**
 3 **liberal opportunity to participate in elections held under this**
 4 **chapter. Mail-in ballots may be used.**

5 **(c) Absentee ballots may be used in an election under this**
 6 **chapter.**

7 **Sec. 6. If, as a result of an election under this chapter, an**
 8 **employee organization receives a majority of the votes cast, the**
 9 **PERB shall certify that employee organization as the exclusive**
 10 **bargaining representative of the bargaining unit.**

11 **Chapter 6. Collective Bargaining**

12 **Sec. 1. The certification of an employee organization as the**
 13 **exclusive bargaining representative of the bargaining unit**
 14 **continues as long as the employee organization satisfies the**
 15 **requirements of this article.**

16 **Sec. 2. An employee organization certified as the exclusive**
 17 **bargaining representative of the employees of a bargaining unit**
 18 **may do the following:**

19 **(1) Speak on behalf of all members of the unit.**

20 **(2) Represent the interests of all members of the unit**
 21 **without:**

22 **(A) discrimination; and**

23 **(B) regard to employee organization membership.**

24 **(3) Exclusively have organizational membership dues**
 25 **collected by the state by wage assignment under IC 22-2-6-2.**

26 **(4) Negotiate with the director of the state personnel**
 27 **department or the director's designee concerning the**
 28 **following mandatory subjects of negotiation:**

29 **(A) Wages.**

30 **(B) Hours.**

31 **(C) Working conditions.**

32 **Sec. 3. An employee organization shall conduct the solicitation**
 33 **of membership, dues, or other internal employee organization**
 34 **business only during the nonduty hours of the employees**
 35 **concerned.**

36 **Chapter 7. Employer and Employee Rights**

37 **Sec. 1. The employer has the right to do the following:**

38 **(1) Direct the work of the employer's employees.**

39 **(2) Hire, promote, transfer, assign, and retain employees.**

40 **(3) Suspend, demote, discharge, or take other disciplinary**
 41 **action against employees.**

42 **(4) Maintain the efficiency of all governmental operations.**

43 **(5) Relieve an employee from duties because of a lack of**
 44 **work or for any other legitimate reason not prohibited by**
 45 **law.**

46 **(6) Determine and implement the methods, means, and**
 47 **personnel by which the employer's operations are to be**
 48 **conducted.**

49 **(7) Initiate, prepare, certify, and administer the employer's**
 50 **budget.**

1 **(8) Exercise all other powers and duties granted to the**
 2 **employer by law.**

3 **Sec. 2. (a) An employee has the right to do the following:**

4 **(1) Organize, form, join, and assist an employee organization**
 5 **under this article.**

6 **(2) Negotiate collectively through exclusive bargaining**
 7 **representatives chosen under this article.**

8 **(3) Engage in other concerted activities for the purpose of**
 9 **collective bargaining, mutual aid, or protection that:**

10 **(A) are not prohibited by law; and**

11 **(B) do not interfere with the proper performance of**
 12 **another employee's work, unless authorized by a**
 13 **collective bargaining agreement.**

14 **(4) Refuse to join or participate in the activities of an**
 15 **employee organization, except for the payment of fair share**
 16 **fees if required in a collective bargaining agreement under**
 17 **this article.**

18 **(b) The rights described in this section do not extend to**
 19 **participation in the collective bargaining process where such**
 20 **participation would result in a conflict of interest or otherwise be**
 21 **incompatible with law.**

22 **Chapter 8. Strikes**

23 **Sec. 1. (a) It is unlawful for an employee organization to**
 24 **directly or indirectly threaten, encourage, or participate in a strike,**
 25 **slowdown, or other interruption or interference with the activities**
 26 **of the state.**

27 **(b) It is unlawful for an employee to directly or indirectly:**

28 **(1) threaten, encourage, or participate in a strike, slowdown,**
 29 **or other interruption or interference with the activities of the**
 30 **state; or**

31 **(2) abstain, in whole or in part, from the full, faithful, and**
 32 **proper performance of the employee's duties of employment.**

33 **(c) Each day that an employee or employee organization**
 34 **violates this section constitutes a separate offense.**

35 **Sec. 2. An employee who violates section 1 of this chapter shall**
 36 **be immediately dismissed. An employee dismissed under this**
 37 **section is ineligible for rehiring with the executive branch for at**
 38 **least one (1) year following the dismissal.**

39 **Sec. 3. An employee organization that violates section 1 of this**
 40 **chapter:**

41 **(1) shall cease to be the exclusive bargaining representative**
 42 **of the bargaining unit and shall be decertified;**

43 **(2) may not have organizational membership dues collected**
 44 **on its behalf by the state; and**

45 **(3) may not submit a petition for certification as the exclusive**
 46 **bargaining representative of the bargaining unit until at least**
 47 **one (1) year has elapsed since the decertification under**
 48 **subdivision (1).**

49 **Sec. 4. The remedies and penalties specified by this chapter are**
 50 **separate and are in addition to any other legal or equitable remedy**

1 or penalty.

2 Chapter 9. Settlements with Employee Organization

3 Sec. 1. (a) The settlements in effect between the state and the
4 following employee organizations (before they were rescinded by
5 Executive Order 05-14 on January 11, 2005) are reinstated,
6 effective January 11, 2005:

7 (1) The settlement between the state and The Unity Team
8 Local 9212/UAW/AFT, approved by Executive Order 03-44.

9 (2) The settlement between the state and ASCME Council 62,
10 approved by Executive Order 03-45.

11 (3) The settlement between the state and Indiana Professional
12 Law Enforcement Association, Local 1041,
13 I.U.P.A./AFL-CIO, approved by Executive Order 4-1.

14 (b) The settlements listed in subsection (a) continue without
15 interruption and do not expire except as provided by an enactment
16 of the general assembly."

17 Page 27, after line 21, begin a new paragraph and insert:

18 "SECTION 19. [EFFECTIVE UPON PASSAGE] (a)
19 Notwithstanding IC 5-28-4-2 and IC 5-28-4-3, as added by this act:

20 (1) the director of the state personnel department shall assign
21 all employees (as defined in IC 5-28-1-4, as added by this act)
22 and job descriptions to one (1) of the appropriate statewide
23 bargaining units as required by IC 5-28-4-2; and

24 (2) the assignment of employees and job descriptions to
25 bargaining unit categories under this SECTION may not be
26 challenged until July 1, 2006.

27 (b) Notwithstanding subsection (a), the state personnel
28 director's initial assignment of an employee or a job description to
29 the appropriate bargaining unit is considered to be made, upon the
30 passage of this act, to the bargaining unit created under Executive
31 Order 03-35 (before it was rescinded by Executive Order 05-14 on
32 January 11, 2005) to which the employee and the job description
33 was assigned on January 10, 2005.

34 SECTION 20. [EFFECTIVE UPON PASSAGE]
35 Notwithstanding IC 5-28, as added by this act, an employee
36 organization that was certified before January 11, 2005, in an
37 election conducted by the public employees relations board created
38 by Executive Order 03-35 (before it was rescinded by Executive
39 Order 05-14 on January 11, 2005) as the exclusive negotiating
40 organization for a bargaining unit is granted recognition as the
41 exclusive bargaining representative for that unit upon the passage
42 of this act.

43 SECTION 21. [EFFECTIVE UPON PASSAGE] (a)
44 Notwithstanding IC 5-28-2-2, as added by this act, the terms of the
45 persons initially appointed to the public employee relations board
46 established by IC 5-28-2-1, as added by this act, shall be as follows:

47 (1) Two (2) members appointed for a term of one (1) year.

48 (2) One (1) member appointed for a term of two (2) years.

49 (3) One (1) member appointed for a term of three (3) years.

50 (4) One (1) member appointed for a term of four (4) years.

1 **(b) The governor shall make the initial appointments to the**
2 **public employee relations board not later than June 15, 2005.**
3 **(c) This SECTION expires July 1, 2009.**
4 SECTION 22. [EFFECTIVE UPON PASSAGE] **(a) The public**
5 **employee relations board established by IC 5-28-2-1, as added by**
6 **this act, shall carry out the board's duties under this act under**
7 **interim written guidelines approved by the governor.**
8 **(b) This SECTION expires on the earlier of:**
9 **(1) the date rules are adopted under IC 5-28-2-7; or**
10 **(2) January 1, 2006.**
11 SECTION 23. **An emergency is declared for this act."**
12 Renumber all SECTIONS consecutively.
 (Reference is to ESB 508 as printed March 25, 2005.)

Representative CHENEY