

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1057 be amended to read as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-32 IS ADDED TO THE INDIANA CODE AS A
- 3 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
- 4 PASSAGE]:
- 5 **ARTICLE 32. COLLECTIVE BARGAINING FOR**
- 6 **EMPLOYEES OF THE EXECUTIVE BRANCH**
- 7 **Chapter 1. Definitions**
- 8 **Sec. 1. The definitions in this chapter apply throughout this**
- 9 **article.**
- 10 **Sec. 2. "Bargaining unit" means classes or groups of jobs or**
- 11 **positions that are held by employees whose collective interests may**
- 12 **be suitably represented by an employee organization for collective**
- 13 **bargaining.**
- 14 **Sec. 3. "Confidential employee" means an employee:**
- 15 **(1) who works in the personnel office of the employer;**
- 16 **(2) who has access to confidential or discretionary**
- 17 **information that may be used by the employer in negotiating**
- 18 **a collective bargaining agreement under this article;**
- 19 **(3) who works in the office of the governor or a state officer**
- 20 **who provides notice pursuant to IC 5-32-3-1;**
- 21 **(4) whose:**
- 22 **(A) functional responsibilities; or**
- 23 **(B) knowledge;**
- 24 **concerning employee relations makes the employee's**

- 1 membership in an employee organization incompatible with
 2 the employee's duties; or
 3 (5) who is a personal secretary of the chief administrative or
 4 executive officer of an agency.
- 5 **Sec. 4. "Employee" means an individual who is employed by the**
 6 **employer, unless the individual is any of the following:**
- 7 (1) An intermittent, temporary, or student employee.
 - 8 (2) A member of a board or commission.
 - 9 (3) A confidential employee.
 - 10 (4) A supervisor.
 - 11 (5) A managerial employee.
 - 12 (6) A patient or resident of a state institution.
 - 13 (7) An individual in the custody of the department of
 - 14 correction or any law enforcement agency.
 - 15 (8) The chief administrative or executive officer of an agency.
 - 16 (9) An attorney whose responsibilities include providing legal
 - 17 advice or legal research.
 - 18 (10) A physician or dentist.
 - 19 (11) An administrative law judge.
 - 20 (12) An individual who performs internal investigations.
 - 21 (13) Teachers at state institutions whose compensation is
 - 22 determined under any of the following:
 - 23 (A) IC 11-10-5-4.
 - 24 (B) IC 12-24-3-4.
 - 25 (C) IC 16-19-6-7.
- 26 **Sec. 5. "Employee organization" means an organization:**
- 27 (1) in which employees participate; and
 - 28 (2) that exists for the purpose of dealing with the employer
 - 29 concerning wages, hours, settlement of grievances, and other
 - 30 terms and conditions of employment.
- 31 **Sec. 6. (a) "Employer" means the executive branch.**
- 32 **(b) The term does not include any of the following:**
- 33 (1) Bodies corporate and politic.
 - 34 (2) State educational institutions.
 - 35 (3) Unless specifically included under section 7(2) of this
 - 36 chapter, an agency under the direct authority of an elected
 - 37 state officer.
 - 38 (4) The budget agency.
 - 39 (5) Uniformed members of the national guard.
 - 40 (6) The state personnel department.
 - 41 (7) The PERB.
 - 42 (8) The Indiana education employment relations board.
 - 43 (9) The state board of accounts.
- 44 **Sec. 7. "Executive branch" means the following:**
- 45 (1) Agencies (as defined by IC 4-22-2-3) under the direct
 - 46 authority of the governor.
 - 47 (2) Agencies under the direct authority of any other elected

- 1 state officer electing coverage under IC 5-32-3.
- 2 **Sec. 8. "Managerial employee" means an individual who is:**
- 3 (1) engaged predominantly in executive and management
- 4 functions; or
- 5 (2) charged with the responsibility of directing the
- 6 effectuation of management policies and practices.
- 7 **Sec. 9. "PERB" refers to the public employees relations board**
- 8 **established by IC 5-32-2-1.**
- 9 **Sec. 10. "Supervisor" means an individual having authority in**
- 10 **the interest of the employer to:**
- 11 (1) hire, transfer, suspend, lay off, recall, promote, discharge,
- 12 assign, reward, or discipline other employees;
- 13 (2) adjust employee grievances; or
- 14 (3) effectively recommend any of the actions in subdivision (1)
- 15 or (2);
- 16 if the exercise of the authority is not merely of a routine or clerical
- 17 nature, but requires the use of independent judgment.
- 18 **Sec. 11. "Temporary employee" means an individual who is**
- 19 **employed in a temporary position for not more than ninety (90)**
- 20 **days.**
- 21 **Chapter 2. Public Employees Relations Board**
- 22 **Sec. 1. The public employees relations board (PERB) is**
- 23 **established.**
- 24 **Sec. 2. (a) The PERB has five (5) members who are appointed**
- 25 **by the governor.**
- 26 **(b) A PERB member may not:**
- 27 (1) be a representative of or be employed by an employee
- 28 organization or an affiliate of an employee organization; or
- 29 (2) hold any other public office.
- 30 **(c) The term of each member is four (4) years.**
- 31 **Sec. 3. A vacancy on the PERB shall be filled by the governor.**
- 32 **Sec. 4. The governor shall designate a PERB member to serve**
- 33 **as the chairperson.**
- 34 **Sec. 5. A majority of the PERB members appointed to the board**
- 35 **constitutes a quorum.**
- 36 **Sec. 6. The PERB shall do the following:**
- 37 (1) Conduct elections under this article.
- 38 (2) Make determinations concerning exclusive bargaining
- 39 representatives and representation matters under this article.
- 40 (3) Resolve issues that may arise under this article.
- 41 **Sec. 7. The PERB shall adopt rules under IC 4-22-2 to carry out**
- 42 **this article.**
- 43 **Sec. 8. The Indiana education employment relations board**
- 44 **established by IC 20-29-3-1 shall provide staff assistance needed by**
- 45 **the PERB.**
- 46 **Chapter 3. Opt In**
- 47 **Sec. 1. (a) An elected state officer may elect to have the officer's**

1 employees to be subject to this article by submitting a written
2 notice to the PERB.

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

5 **Chapter 4. Bargaining Units**

6 **Sec. 1. An employee must be included under one (1) of the**
7 **following eleven (11) bargaining units:**

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

9 (A) Carpenters.

10 (B) Electricians.

11 (C) Plumbers.

12 (D) Print shop workers.

13 (E) Auto mechanics.

14 (F) Maintenance workers.

15 (G) Similar classes.

16 (2) Administrative and technical support that includes clerical
17 and administrative nonprofessional classes, including the
18 following:

19 (A) Typists.

20 (B) Secretaries.

21 (C) Account clerks.

22 (D) Computer operators.

23 (E) Office service personnel.

24 (F) Personnel who provide support services to
25 professionals.

26 (G) Other nonprofessional employees who do not meet the
27 standards of other nonprofessional units.

28 (3) Regulatory, inspection, and licensure nonprofessionals
29 that include individuals who review public and commercial
30 activities, including the following:

31 (A) Tax examiners.

32 (B) Driver's license examiners.

33 (C) Meat inspectors.

34 (D) Similar classes.

35 (4) Health and human services nonprofessionals, including the
36 following:

37 (A) Licensed practical nurses.

38 (B) Nursing aides.

39 (C) Psychiatric attendants.

40 (D) Therapy aides.

41 (E) Claims takers.

42 (F) Similar classes.

43 (5) Regulatory, inspection, and licensure professional
44 employees empowered to review certain public and
45 commercial activities, including the following:

46 (A) Revenue auditors.

47 (B) Bank and insurance examiners.

- 1 (C) Public health inspectors.
 2 (D) Similar classes.
 3 **(6) Health care professionals, including the following:**
 4 (A) Registered nurses.
 5 (B) Pharmacists.
 6 (C) Licensed therapists.
 7 (D) Similar classes.
 8 **(7) Social services and counseling professionals who provide**
 9 **services and benefits to eligible persons, including the**
 10 **following:**
 11 (A) Employment and training personnel.
 12 (B) Welfare caseworkers.
 13 (C) Social workers.
 14 (D) Counselors.
 15 (E) Similar classes.
 16 **(8) Engineering, scientific, and information services**
 17 **professionals, including the following:**
 18 (A) Architects.
 19 (B) Chemists.
 20 (C) Geologists.
 21 (D) Civil engineers.
 22 (E) Computer programmers.
 23 (F) System analysts.
 24 (G) Similar classes.
 25 **(9) Professional administrative employees with general**
 26 **business responsibilities, including the following:**
 27 (A) Accountants.
 28 (B) Buyers.
 29 (C) Administrators.
 30 (D) Other professional employees who do not meet the
 31 standards of the other professional units.
 32 **(10) Public safety, protective service workers, and**
 33 **institutional security employees, including the following:**
 34 (A) Correctional officers.
 35 (B) Building guards.
 36 (C) Firefighters.
 37 (D) Motor carrier inspectors of the state police
 38 department.
 39 (E) Similar classes.
 40 **(11) Sworn police officers, including the following:**
 41 (A) Law enforcement officers of the state police
 42 department.
 43 (B) Conservation officers of the department of natural
 44 resources.
 45 (C) Excise police of the alcohol and tobacco commission.
 46 **Sec. 2. The director of the state personnel department shall**
 47 **determine the assignment of each employee, including the**

1 employees of a state officer electing coverage under IC 5-32-3-1, to
 2 a bargaining unit under section 1 of this chapter based on the
 3 employee's job classification and position.

4 **Sec. 3. In determining the appropriateness of the assignment of**
 5 **an employee to a unit in section 1 of this chapter, the director of the**
 6 **state personnel department shall consider the following:**

7 (1) **The principles of efficient administration of government,**
 8 **including limiting the fragmentation of government**
 9 **administrative authority.**

10 (2) **The existence of a community of interest among the**
 11 **employees assigned to the bargaining unit.**

12 (3) **The recommendations of the parties involved.**

13 **Chapter 5. Representation Proceedings**

14 **Sec. 1. An employee organization may be accorded recognition**
 15 **as the exclusive negotiating organization for an appropriate unit.**

16 **Sec. 2. The state personnel director may recognize an employee**
 17 **organization as the exclusive negotiating organization of the**
 18 **members of an appropriate unit when the employee organization**
 19 **has been selected by a majority of the employees voting in an**
 20 **election.**

21 **Sec. 3. An employee organization may request that an election**
 22 **be held by submitting a petition for election to the PERB. The**
 23 **petition must be accompanied by a showing of interest by thirty**
 24 **percent (30%) of the employees of the appropriate unit.**

25 **Sec. 4. Not more than fifteen (15) days after a determination**
 26 **that a valid petition has been submitted, the PERB shall notify**
 27 **interested employee organizations of a proceeding under this**
 28 **chapter.**

29 **Sec. 5. An interested employee organization must file a petition**
 30 **of intervention with the PERB, which must be accompanied by a**
 31 **showing of interest by ten percent (10%) of the employees in the**
 32 **appropriate unit within thirty (30) days of notice of the pending**
 33 **election.**

34 **Sec. 6. An election under this chapter shall be held within a**
 35 **reasonable time after the determination of a valid petition for**
 36 **election as specified in the PERB's rules.**

37 **Sec. 7. (a) The certification of an employee organization as the**
 38 **exclusive bargaining representative of the bargaining unit**
 39 **continues as long as the employee organization satisfies the**
 40 **requirements of this article and subsequent guidelines by the PERB**
 41 **applicable to recognition.**

42 **(b) Notwithstanding subsection (a), nothing in this chapter shall**
 43 **require the PERB to conduct an election in a unit within twelve**
 44 **(12) months after a valid election in the unit was held pursuant to**
 45 **this chapter.**

46 **Chapter 6. Collective Bargaining**

47 **Sec. 1. An employee organization certified as the exclusive**

1 bargaining representative of the employees of a bargaining unit
2 may do the following:

- 3 (1) Speak on behalf of all members of the unit.
4 (2) Represent the interests of all members of the unit without:
5 (A) discrimination; and
6 (B) regard to employee organization membership.
7 (3) Be permitted exclusively to have organizational
8 membership dues collected by the state by wage assignment
9 under IC 22-2-6-2. This privilege shall be immediately
10 revoked by the state personnel director in the event of a
11 violation of IC 5-32-8-1(a).
12 (4) Negotiate, subject to the approval of the governor, with the
13 director of the state personnel department or the director's
14 designee concerning the following mandatory subjects of
15 negotiation:
16 (A) Wages.
17 (B) Hours.
18 (C) Working conditions.

19 **Sec. 2. Recognition of an employee organization shall not**
20 **preclude an employee or group of employees regardless of the**
21 **organization membership of the employee from bringing matters**
22 **of personal concern to the attention of appropriate officials with a**
23 **representative of the employee's own choosing in a grievance**
24 **proceeding in accordance with applicable rule or established policy**
25 **of the state.**

26 **Sec. 3. An employee organization shall conduct the solicitation**
27 **of membership, dues, or other internal employee organization**
28 **business only during the off duty hours of the employees**
29 **concerned.**

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

31 **Sec. 1. An employer has the right to do the following:**

- 32 (1) Direct the work of the employer's employees.
33 (2) Hire, promote, transfer, assign, and retain employees.
34 (3) Suspend, demote, discharge, or take other disciplinary
35 action against employees.
36 (4) Maintain the efficiency of all governmental operations.
37 (5) Relieve an employee from duties because of a lack of work
38 or for any other legitimate reason not prohibited by law.
39 (6) Determine and implement the methods, means, and
40 personnel by which the employer's operations are to be
41 conducted.
42 (7) Take whatever actions may be necessary to carry out the
43 statutory and constitutional mission of the employer.

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

- 45 (1) Organize, form, join, and assist an employee organization
46 under this article.
47 (2) Refuse to join or participate in the activities of an

1 employee organization.

2 (b) The rights described in this section do not extend to
3 participation in the collective bargaining process where such
4 participation would result in a conflict of interest or otherwise be
5 incompatible with law.

6 **Chapter 8. Strikes**

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

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

12 **(1) threaten, encourage, or participate in a strike, slowdown,**
13 **or other interruption or interference with the activities of the**
14 **state; or**

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

17 **Sec. 2. An employee who violates section 1 of this chapter may**
18 **be dismissed. An employee dismissed under this section is ineligible**
19 **for rehiring with the executive branch for at least one (1) year**
20 **following the dismissal.**

21 **Sec. 3. An employee organization that violates section 1 of this**
22 **chapter:**

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

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

27 **(3) may not submit a petition for certification as the exclusive**
28 **bargaining representative of the bargaining unit until at least**
29 **one (1) year has elapsed since the decertification under**
30 **subdivision (1).**

31 **Sec. 4. The remedies and penalties specified by this chapter are**
32 **separate and are in addition to any other legal or equitable remedy**
33 **or penalty.**

34 **Chapter 9. Settlements With Employee Organization**

35 **Sec. 1. The settlements in effect between the state and the**
36 **following employee organizations (before they were rescinded by**
37 **Executive Order 05-14 on January 11, 2005) are reinstated on the**
38 **effective date of this article and do not expire except as provided by**
39 **an enactment of the general assembly:**

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

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

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

47 **SECTION 2. [EFFECTIVE UPON PASSAGE] (a)**

1 Notwithstanding IC 5-32-4-2 and IC 5-32-4-3, both as added by this
2 act:

3 (1) the director of the state personnel department shall assign
4 all employees (as defined in IC 5-32-1-4, as added by this act)
5 and job descriptions to one (1) of the appropriate statewide
6 bargaining units as required by IC 5-32-4-2, as added by this
7 act; and

8 (2) the assignment of employees and job descriptions to
9 bargaining unit categories under this SECTION may not be
10 challenged until July 1, 2010.

11 (b) Notwithstanding subsection (a), the state personnel
12 director's initial assignment of an employee or a job description to
13 the appropriate bargaining unit is considered to be made, upon the
14 effective date of this act, to the bargaining unit created under
15 Executive Order 03-35 (before it was rescinded by Executive Order
16 05-14 on January 11, 2005) to which the employee and the job
17 description were assigned on January 10, 2005.

18 SECTION 3. [EFFECTIVE UPON PASSAGE] Notwithstanding
19 IC 5-32, as added by this act, an employee organization that was
20 certified before January 11, 2005, in an election conducted by the
21 public employees relations board created by Executive Order 03-35
22 (before it was rescinded by Executive Order 05-14 on January 11,
23 2005) as the exclusive negotiating organization for a bargaining
24 unit is granted recognition as the exclusive bargaining
25 representative for that unit upon the effective date of this act.

26 SECTION 4. [EFFECTIVE UPON PASSAGE] (a)
27 Notwithstanding IC 5-32-2-2, as added by this act, the terms of the
28 persons initially appointed to the public employee relations board
29 established by IC 5-32-2-1, as added by this act, shall be as follows:

- 30 (1) Two (2) members appointed for a term of one (1) year.
31 (2) One (1) member appointed for a term of two (2) years.
32 (3) One (1) member appointed for a term of three (3) years.
33 (4) One (1) member appointed for a term of four (4) years.

34 (b) The governor shall make the initial appointments to the
35 public employee relations board not later than June 15, 2009.

36 (c) This SECTION expires July 1, 2013.

37 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) The public
38 employee relations board established by IC 5-32-2-1, as added by
39 this act, shall carry out the board's duties under this act under
40 interim written guidelines approved by the governor.

41 (b) This SECTION expires on the earlier of:

- 42 (1) the date rules are adopted under IC 5-32-2-7, as added by
43 this act; or
44 (2) January 1, 2010.

45 SECTION 6. An emergency is declared for this act.

(Reference is to HB 1057 as printed February 3, 2009.)

Representative Kersey