January 16, 2009

HOUSE BILL No. 1057

DIGEST OF HB 1057 (Updated January 13, 2009 9:49 am - DI 96)

Citations Affected: IC 4-15; IC 4-21.5; IC 5-14; IC 5-32; IC 20-29; noncode.

Synopsis: Collective bargaining for public employees. Permits certain governmental employees and noncertificated employees of school corporations to form and join unions. Establishes a five member public employees relations board. Establishes a procedure for the selection and decertification of an exclusive bargaining representative. Establishes employer and employee rights. Specifies prohibited practices. Requires the employer to bargain collectively when an exclusive representative has been certified. Establishes negotiation, mediation, factfinding, and binding arbitration procedures. Establishes mandatory subjects of negotiation. Provides that all decisions, opinions, or awards made by an arbitrator are subject to public inspection and copying. Provides that a proposed bargaining agreement subject to ratification by the parties is confidential. Requires a grievance procedure to be included in each collective bargaining agreement. Makes strikes by certain public employees unlawful, and establishes penalties for these strikes.

Effective: July 1, 2009.

Kersey, Niezgodski, Herrell

January 7, 2009, read first time and referred to Committee on Labor and Employment.
January 16, 2009, reported — Do Pass. Recommitted to Committee on Ways & Means.

C o p y

January 16, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1057

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-15-1.8-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) There is established within the department the office of chief negotiator, who is:**

(1) appointed by and serves at the pleasure of the governor; and

(2) responsible for negotiating all collective bargaining agreements of the executive branch (as defined in IC 5-32-1-12).

(b) The chief negotiator may be the director.

SECTION 2. IC 4-15-2-35, AS AMENDED BY P.L.222-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) This section does not apply to an employee who:

(1) has been suspended or terminated by the ethics commission; **or**

(2) is a member of a collective bargaining unit that has

entered into a collective bargaining agreement under IC 5-32 for complaints arising while the agreement is in force.

(b) Any regular employee may file a complaint if the employee's status of employment is involuntarily changed or if the employee deems conditions of employment to be unsatisfactory. However, the complaint procedure shall be initiated as soon as possible after the occurrence of the act or condition complained of and in no event shall be initiated more than thirty (30) calendar days after the employee is notified of a change in the status of employment or after an unsatisfactory condition of employment is created. Failure to initiate the complaint procedure within this time period shall render the complaint procedure unavailable to the employee. The following complaint procedure shall be followed:

~~Step I.~~ **(1)** The complaint procedure shall be initiated by a discussion of the complaint by the employee and the employee's immediate supervisor and, if a mutually satisfactory settlement has not been made within two (2) consecutive working days, the complaint may be referred to ~~Step II.~~ **subdivision (2).**

~~Step II.~~ **(2)** The complaint shall be reduced to writing and presented to the intermediate supervisor. If a mutually satisfactory settlement has not been reached within four (4) consecutive working days, such complaint may then be referred to the appointing authority.

~~Step III.~~ **(3)** The appointing authority or the appointing authority's designee shall hold a hearing, if necessary, and conduct whatever investigation the appointing authority or the appointing authority's designee considers necessary to render a decision. The appointing authority or the appointing authority's designee must render a decision in writing not later than ten (10) business days from the date of the hearing, if applicable, or close of the investigation, whichever occurs later.

(4) If the appointing authority or the appointing authority's designee does not find in favor of the employee, the complaint may be submitted within fifteen (15) calendar days to the state personnel director. The director or the director's designee shall review the complaint and render a decision not later than fifteen (15) calendar days after the director or the director's designee receives the complaint. If the decision is not agreeable to the employee, an appeal may be submitted by the employee in writing to the commission not later than fifteen (15) calendar days from the date the employee has been given notice of the action taken by the personnel director or the director's designee. After submission

C o p y

of the appeal, the commission shall, prior to rendering its decision, grant the appealing employee and the appointing authority a public hearing, with the right to be represented and to present evidence. With respect to all appeals, the commission shall render its decision within thirty (30) days after the date of the hearing on the appeal. If the commission finds that the action against the employee was taken on the basis of politics, religion, sex, age, race, or because of membership in an employee organization, the employee shall be reinstated without loss of pay. In all other cases the appointing authority shall follow the recommendation of the commission, which may include reinstatement and payment of salary or wages lost by the employee, which may be mitigated by any wages the employee earned from other employment during a dismissed or suspended period.

(5) If the recommendation of the commission is not agreeable to the employee, the employee, within fifteen (15) calendar days from receipt of the commission recommendation, may elect to submit the complaint to arbitration. The cost of arbitration shall be shared equally by the employee and the state of Indiana. The commissioner of labor shall prepare a list of three (3) impartial individuals trained in labor relations, and from this list each party shall strike one (1) name. The remaining arbitrator shall consider the issues which were presented to the commission and shall afford the parties a public hearing with the right to be represented and to present evidence. The arbitrator's findings and recommendations shall be binding on both parties and shall immediately be instituted by the commission.

SECTION 3. IC 4-21.5-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7. (a) This article applies to the following:**

(1) The public employees relations board established by IC 5-32-2-1.

(2) Issue arbitration under IC 5-32-14.

(b) This article does not apply to grievance arbitration under IC 5-32-15.

SECTION 4. IC 5-14-1.5-6.5, AS AMENDED BY P.L.1-2005, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. (a) Whenever ~~a governing body, or any person authorized to act for a governing body, meets with an employee organization, or any person authorized to act for an employee organization, for the purpose of~~ **there is** collective bargaining or

C o p y

discussion **between the parties under IC 5-32 or IC 20-29-6** the following apply:

(1) Any party may inform the public of the status of collective bargaining or discussion as it progresses by release of factual information and expression of opinion based upon factual information.

(2) If a mediator is appointed, any report the mediator may file at the conclusion of mediation is ~~a public record open to public inspection.~~ **confidential.**

(3) If a factfinder is appointed, any hearings the factfinder holds must be open at all times for the purpose of permitting members of the public to observe and record them. Any findings and recommendations the factfinder makes are public records open to **the** public ~~inspection~~ as provided by **IC 5-32-13-2(e) and** IC 20-29-8-13. ~~or any other applicable statute relating to factfinding in connection with public collective bargaining.~~

(4) If an arbitrator is appointed, all decisions, opinions, or awards made by an arbitrator are subject to public inspection and copying under IC 5-14-3-3.

(b) This section supplements and does not limit any other provision of this chapter.

SECTION 5. IC 5-32 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 32. COLLECTIVE BARGAINING

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Bargaining unit" means classes or groups of jobs or positions that are held by employees whose collective interests may be suitably represented by an employee organization for collective bargaining.

Sec. 3. "Binding arbitration" refers to the procedures prescribed under IC 5-32-14 and IC 5-32-15 under which parties involved in an impasse or a grievance submit their differences to a third party for a final and binding decision.

Sec. 4. "Chief negotiator" means the individual or designee appointed to serve as the bargaining representative of the employer.

Sec. 5. "Confidential employee" means an employee:

(1) who works in the personnel office of the employer;

(2) who has access to confidential or discretionary

C o p y

information that may be used by the employer in negotiating a collective bargaining agreement under this article;

(3) who works in a close and continuing working relationship with an individual:

(A) holding elective office; or

(B) who represents the employer in negotiations under this article;

(4) whose:

(A) functional responsibilities; or

(B) knowledge;

concerning employee relations makes the employee's membership in an employee organization incompatible with the employee's duties; or

(5) who is a personal secretary of:

(A) the chief administrative or executive officer of an agency;

(B) a deputy or an assistant to the chief administrative or executive officer of an agency; or

(C) an individual holding elected office.

Sec. 6. "Deficit financing" means expenditures that exceed money legally available to the employer in any budget year.

Sec. 7. "Eligible political subdivision" means the following:

(1) A county, city, town, or township (as defined in IC 36-1-2) that:

(A) has a population of less than five thousand (5,000) and has adopted an ordinance or passed a resolution under IC 5-32-3-2; or

(B) has a population of at least five thousand (5,000).

(2) A school corporation (as defined in IC 20-18-2-16) regarding the school corporation's noncertificated employees (as defined in IC 20-29-2-11).

Sec. 8. "Employee" means an individual who is employed by an employer, unless the individual is any of the following:

(1) An intermittent, a temporary, or a student employee.

(2) A member of a board or commission.

(3) A confidential employee.

(4) A supervisor.

(5) A managerial employee.

(6) A patient or resident of a state institution.

(7) An individual in the custody of the department of correction.

(8) The chief administrative or executive officer of a state

C o p y

agency.
(9) An attorney whose responsibilities include providing legal advice or performing legal research.
(10) A physician or dentist.
(11) An administrative law judge.
(12) An individual who performs internal investigations.
(13) A neutral.
(14) An employee of an eligible political subdivision who is not included for coverage under this article under the terms of an ordinance or a resolution adopted under IC 5-32-3-2.
(15) A local public safety officer.
(16) A professional employee of the Indiana economic development corporation who participates in economic development matters.
(17) A certificated employee (as defined in IC 20-29-2-4) of a school corporation.

Sec. 9. "Employee organization" means an organization:
(1) in which employees participate; and
(2) that exists in whole or in part to deal with an employer concerning:
(A) wages;
(B) hours;
(C) settlement of grievances; and
(D) other terms and conditions of employment.

Sec. 10. (a) "Employer" means the following:
(1) The executive branch.
(2) A state educational institution.
(3) An eligible political subdivision.

(b) The term does not include any of the following:
(1) The senate, the house of representatives, the legislative services agency, or any commission or agency of the legislative department of the state.
(2) The judicial branch of state government, including any commission or agency of the judicial branch.
(3) A school corporation, with respect to the school corporation's certificated employees.
(4) Unless specifically included under section 12 of this chapter, the office of an individual holding an elected office.
(5) Bodies corporate and politic.
(6) The budget agency.
(7) Uniformed members of the Indiana army national guard or Indiana air national guard.

C o p y

(8) The state personnel department.
(9) PERB.
(10) The education employment relations board.
(11) The state board of accounts.

Sec. 11. "Exclusive bargaining representative" means an employee organization that has been certified as the result of a representation proceeding under IC 5-32-8 to be the sole representative of the members of a bargaining unit.

Sec. 12. "Executive branch" means the following:

(1) An agency (as defined in IC 4-22-2-3(a)) under the direct authority of the governor.
(2) An agency under the direct authority of any other elected state officer electing coverage under IC 5-32-3-1.

Sec. 13. "Factfinding" means the procedure by which a neutral makes findings of fact and recommendations for resolution of an impasse under IC 5-32-13.

Sec. 14. "Impasse" means the failure of the employer and an exclusive bargaining representative to reach agreement during the course of negotiations.

Sec. 15. "Intervening employee organization" means an employee organization that demonstrates to PERB a showing of interest of at least thirty percent (30%) of the members of a bargaining unit.

Sec. 16. "Issue" means broad subjects of negotiation that are presented to an arbitrator under IC 5-32-14.

Sec. 17. "Just cause", as the term pertains to an employee, includes any of the following:

(1) Falsification of an employment application to obtain employment through subterfuge.
(2) Knowing violation of a reasonable and uniformly enforced rule of an employer.
(3) Unsatisfactory attendance, if the employee is unable to show good cause for the employee's absences or tardiness.
(4) Damaging the employer's property through willful negligence.
(5) Refusing to obey lawful instructions.
(6) Reporting to work under the influence of alcohol or a controlled substance or consuming alcohol or a controlled substance on the employer's premises or while operating the employer's vehicles.
(7) Conduct endangering the safety of the employee, any other employee, a client, or another individual entrusted to the

C o p y

employee's care.

(8) Incarceration following the conviction of a misdemeanor or felony.

(9) Any breach of a duty in connection with the employee's employment that is reasonably owed to the employer by an employee.

Sec. 18. "Local public safety officer" means a:

(1) police officer; or

(2) firefighter;

employed by an eligible political subdivision.

Sec. 19. "Managerial employee" means an individual who is:

(1) engaged predominantly in executive or management functions; or

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

Sec. 20. "Mediation" means assistance by an impartial third party to reconcile an impasse through persuasion, suggestion, and advice.

Sec. 21. "Neutral" includes the following:

(1) Factfinder.

(2) Arbitrator.

(3) Mediator.

Sec. 22. "PERB" refers to the public employees relations board established by IC 5-32-2-1.

Sec. 23. "State employee" means an employee of the executive branch.

Sec. 24. "Strike" means a public employee's:

(1) refusal to report to duty;

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

(3) stoppage of work; or

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

in concerted action with another individual or public employee without the lawful approval of the employer.

Sec. 25. "Supervisor" means an individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, direct, or discipline another employee, or to adjust a grievance, or to recommend such action, if, in connection with the above, the exercise of such authority is not merely routine or clerical in nature but requires

C o p y

the use of independent judgment.

Sec. 26. "Temporary employee" means an individual who is employed:

(1) in a position intended not to be permanent; and

(2) for not more than ninety (90) days.

Sec. 27. "University employee" means an employee of a state educational institution.

Chapter 2. Public Employees Relations Board

Sec. 1. The public employees relations board (PERB) is established.

Sec. 2. (a) The PERB has five (5) members who are appointed by the governor. Not more than three (3) members may be members of the same political party.

(b) A PERB member may not:

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

(2) hold any other public office.

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

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

Sec. 4. The governor shall designate a member of the PERB to serve as the chair. The chair:

(1) shall serve as the full-time director;

(2) must possess educational credentials and experience in labor relations matters as a prerequisite to designation as chair;

(3) shall give full time to the chair's duties; and

(4) may not engage in any other business, vocation, or employment.

Sec. 5. (a) Each member of the PERB is entitled to compensation:

(1) as fixed by the state personnel director; and

(2) subject to the approval of the budget agency.

(b) Each member of the PERB is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 6. A majority of the PERB members constitutes a quorum.

Sec. 7. The PERB shall do the following:

(1) Process and make determinations concerning complaints under IC 5-32-11.

C o p y

(2) Provide impasse services.
(3) Provide research services.
(4) Process and make determinations concerning bargaining unit and representation matters under this article.
(5) Establish the qualifications of neutrals after consultation with the designated representatives of the employer and the exclusive bargaining representatives.
(6) Maintain a register of neutrals for use by the employer and exclusive bargaining representatives drawn from a nationwide pool of qualified neutrals.
(7) Enforce its own decisions and determinations according to IC 4-21.5.

Sec. 8. (a) The PERB may do the following:
(1) Appoint staff, including attorneys who may represent the PERB in legal proceedings subject to IC 4-15-2 who are necessary for the performance of the PERB's duties. However, the staff director and chief counsel for the PERB are not subject to IC 4-15-2.
(2) Use full-time employees or establish a panel of individuals to provide mediation services.
(3) Contract for the services of private legal counsel to represent the PERB in legal proceedings.
(4) Contract for the services of other professionals.
(5) Designate a PERB member or other individuals as administrative law judges.
(6) Use the services of volunteers.
(7) Issue subpoenas and subpoenas duces tecum.
(8) Hold hearings.
(9) Do all things necessary to carry out this article.

(b) The PERB shall adopt rules under IC 4-22-2 to carry out this article.

Sec. 9. Parties negotiating collective bargaining agreements under this article shall use the register of neutrals maintained by the PERB unless the parties agree to use another list of neutrals. If the PERB list is used to appoint an arbitrator, the parties shall determine by lot which party will first delete a name from the list. The parties shall continue by alternately deleting names until one (1) neutral is selected.

Chapter 3. Opt In

Sec. 1. (a) An elected state officer may elect to include the employees of the elected state officer to be subject to this article by submitting a written notice to the PERB.

C o p y

(b) The notice must be consistent with this article and may not include employees otherwise excluded.

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

(d) Except as provided by subsection (e), an election made under this chapter:

(1) may not be repealed; and

(2) may be amended to add employees who are subject to this article.

(e) If an exclusive bargaining representative is decertified under this article, the elected state officer may repeal or amend an election made under this chapter within sixty (60) days after decertification as that election applies to employees of the elected state officer formerly represented by the decertified employee organization.

Sec. 2. (a) This section applies to a county, city, town, or township with a population of less than five thousand (5,000).

(b) The legislative body of a:

(1) county, city, or town may adopt an ordinance; or

(2) township may pass a resolution;

providing that this article applies to the county, city, town, or township. If an ordinance is adopted or a resolution is passed under this subsection, the county, city, town, or township is an eligible political subdivision for purposes of this article.

(c) An ordinance adopted or a resolution passed under subsection (b) must do the following:

(1) State that the county, city, town, or township elects to be an eligible political subdivision for purposes of this article.

(2) Declare the employees of the county, city, town, or township that will be subject to this article.

(d) Except as provided in subsection (e), an ordinance adopted or a resolution passed under this section:

(1) may not be repealed; and

(2) may be amended to add employees who will be subject to this article.

(e) If an exclusive bargaining representative is decertified under this article, the legislative body of the county, city, town, or township may repeal or amend the ordinance or resolution adopted or passed under this section not more than sixty (60) days after decertification as that ordinance or resolution applies to employees formerly represented by the decertified employee organization.

Chapter 4. State Employee Bargaining Units

C o p y

Sec. 1. This chapter applies only to state employees.

Sec. 2. (a) An employee must be included under one (1) of the following bargaining units:

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

(A) Carpenters.

(B) Electricians.

(C) Plumbers.

(D) Print shop workers.

(E) Auto mechanics.

(F) Maintenance workers.

(G) Similar classes.

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

(A) Typists.

(B) Secretaries.

(C) Account clerks.

(D) Computer operators.

(E) Office service personnel.

(F) Personnel who provide support services to professionals.

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

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

(A) Tax examiners.

(B) Driver's license examiners.

(C) Meat inspectors.

(D) Similar classes.

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

(A) Licensed practical nurses.

(B) Nursing aides.

(C) Psychiatric attendants.

(D) Therapy aides.

(E) Claims takers.

(F) Assistant caseworkers.

(G) Similar classes.

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

C o p y

(A) Revenue auditors.
(B) Bank and insurance examiners.
(C) Public health inspectors.
(D) Similar classes.
(6) Health care professionals, including the following:
(A) Registered nurses.
(B) Pharmacists.
(C) Licensed therapists.
(D) Similar classes.
(7) Social services and counseling professionals, including the following, who provide services and benefits to eligible persons:
(A) Employment and training personnel.
(B) Welfare caseworkers.
(C) Social workers.
(D) Counselors.
(E) Similar classes.
(8) Engineering, scientific, and information services professionals, including the following:
(A) Architects.
(B) Chemists.
(C) Geologists.
(D) Civil engineers.
(E) Computer programmers.
(F) System analysts.
(G) Similar classes.
(9) Professional administrative employees with general business responsibilities, including the following:
(A) Accountants.
(B) Buyers.
(C) Administrators.
(D) Other professional employees who do not meet the standards of the other professional units.
(10) Public safety, protective service workers, and institutional security employees, including the following:
(A) Correctional officers.
(B) Building guards.
(C) Firefighters.
(D) Motor carrier inspectors of the state police department.
(E) Similar classes.
(11) Sworn police officers, including the following:

C o p y

(A) Police employees of the state police department.
(B) Conservation officers of the department of natural resources.
(C) Excise police of the alcohol and tobacco commission.
(D) Gaming agents of the Indiana gaming commission.

(12) Teachers at state institutions whose compensation is determined under any of the following:
(A) IC 11-10-5-4.
(B) IC 12-24-3-4.
(C) IC 16-19-4-7.

(b) Bargaining units other than those listed in subsection (a) may be established by the PERB.

Sec. 3. The director of the state personnel department shall determine the assignment of each state employee, based on the state employee's job classification, to a bargaining unit under section 2 of this chapter, unless a state employee or an employee organization challenges the assignment.

Sec. 4. (a) If a state employee or an employee organization challenges a determination under section 3 of this chapter by filing a bargaining unit amendment and clarification petition under IC 5-32-8, the assignment is void and the PERB shall determine the appropriate assignment.

(b) In determining the appropriateness of the assignment of a state employee to a unit in section 2 of this chapter, the PERB shall consider the following:
(1) The principles of efficient administration of government, including limiting the fragmentation of government administrative authority.
(2) The existence of a community of interest among the employees assigned to the bargaining unit.
(3) The recommendations of the parties involved.

Sec. 5. Each bargaining unit under this chapter must be established on a statewide basis.

Chapter 5. Bargaining Unit Determination

Sec. 1. This chapter does not apply to state employees or state employee bargaining units.

Sec. 2. (a) An employee, employer, or employee organization may file a petition with the PERB seeking the determination of an appropriate bargaining unit.

(b) A petition may be filed under this section even if no representation petition is pending under IC 5-32-8. If a representation petition is pending concerning any of the employees,

C o p y

the PERB may combine the petitions.

Sec. 3. The board of trustees of each state educational institution shall designate an individual to assign each university employee to a bargaining unit based on the university employee's job classification.

Sec. 4. A university employee or an employee organization may challenge a determination under section 3 of this chapter by filing a bargaining unit amendment and clarification petition under IC 5-32-8.

Chapter 6. Voluntary Recognition of an Employee Organization as an Exclusive Bargaining Representative

Sec. 1. This chapter does not apply to the following:

(1) State employees.

(2) State employee bargaining units.

(3) University employees.

(4) University employee bargaining units.

Sec. 2. (a) If:

(1) an employee organization submits a written request to an employer that states that a majority of the members of a bargaining unit want the employee organization to be the bargaining unit's exclusive bargaining representative; and

(2) the employer wants to recognize an employee organization under this chapter;

the employer shall post a notice of the employee organization's request for at least thirty (30) days in an area accessible to the employees of the employer.

(b) If no intervening employee organization petitions the PERB for a representation proceeding within the thirty (30) day posting period, the employee organization is the exclusive bargaining representative for the bargaining unit.

Sec. 3. If an intervening employee organization files a petition for a representation proceeding within the thirty (30) day posting period, the PERB shall direct that a representation proceeding be held under IC 5-32-8.

Chapter 7. Historical Recognition of Employee Organization as Exclusive Bargaining Representative

Sec. 1. This chapter does not apply to the following:

(1) State employees.

(2) State employee bargaining units.

(3) University employees.

(4) University employee bargaining units.

Sec. 2. An employee organization may request historical

C o p y

recognition by submitting a petition to the PERB. The petition must include supporting data and documentation concerning the employee organization's previous representation of the bargaining unit.

Sec. 3. A petition filed under section 2 of this chapter shall be granted by the PERB only if:

(1) the PERB has given notice to the employer and to employees affected by the petition;

(2) the employee organization, before July 1, 2009:

(A) was certified after a representation proceeding as the exclusive bargaining representative of the bargaining unit;

(B) was recognized voluntarily by an employer based on a petition, card check, or other showing of interest; or

(C) is certified by the employer by a recognition clause in a collective bargaining agreement; and

(3) a challenge petition is not submitted under section 4 of this chapter within thirty (30) days after notice is given.

Sec. 4. An employee organization may challenge a historical recognition petition by filing a decertification petition accompanied by signatures of at least thirty percent (30%) of the members of the bargaining unit. However, a challenge may not be filed under this section if the historical recognition petition is supported by a valid:

(1) bargaining agreement that has been in effect for less than two (2) years;

(2) card check or other written showing of interest completed not more than two (2) years before the filing of the historical recognition petition; or

(3) election held not more than two (2) years before the filing of the historical recognition petition.

Sec. 5. If the PERB grants a decertification petition, the PERB shall direct that a decertification proceeding be held under IC 5-32-8.

Sec. 6. Before issuing an order certifying an employee organization under this chapter as the exclusive bargaining representative of a bargaining unit, the PERB shall determine the appropriateness of the bargaining unit.

Chapter 8. Representation Proceedings

Sec. 1. The following proceedings may be held under this chapter:

(1) Certification of an employee organization as the exclusive bargaining representative of a bargaining unit.

(2) Decertification of an employee organization as the

C o p y

exclusive bargaining representative of a bargaining unit.

(3) Decertification of an employee organization that has petitioned for historical recognition as the exclusive bargaining representative of a bargaining unit.

(4) Intervening employee organization challenge to an employer's voluntary recognition of an employee organization as the exclusive bargaining representative of a bargaining unit.

(5) Bargaining unit amendment and clarification.

(6) Employer verification of a bargaining representative.

Sec. 2. A petition for a representation proceeding under section 1(1) through 1(3) of this chapter may be filed with the PERB by an employee or employee organization and must include a showing of interest of at least thirty percent (30%) of the employees within a bargaining unit.

Sec. 3. A verification under section 1(6) of this chapter may be filed by the employer if at least one (1) employee organization has presented a claim to be the exclusive bargaining representative of any of the employees of the employer.

Sec. 4. (a) The PERB shall notify interested employee organizations of a proceeding under this chapter.

(b) The PERB shall allow on the ballot any intervening employee organization.

Sec. 5. Within thirty (30) days after a petition is filed under this chapter, the PERB shall issue an order determining the appropriateness of the assignment of an employee to a bargaining unit, if applicable, and, when appropriate, direct that an election be held under this chapter.

Sec. 6. A bargaining unit may not include professional and nonprofessional employees.

Sec. 7. (a) A representation proceeding held under this chapter:

(1) must be by secret ballot;

(2) may not be held unless at least one (1) year has elapsed since the last representation proceeding if there is no recognized exclusive representative; and

(3) may not:

(A) be held unless at least two (2) years have elapsed since the last representation proceeding if there are an exclusive representative and an agreement ratified by both parties; or

(B) be held later than five (5) years after the last proceeding unless no party petitions the PERB for a

C o p y

representation proceeding or unless otherwise provided for in a collectively bargained agreement.

(b) The rules adopted by the PERB under this article must provide for a thirty (30) day period before the date fixed for the initiation of negotiations under IC 5-32-12 during which a decertification petition concerning employees of eligible political subdivisions may be filed. The PERB may order a representation proceeding based on a decertification petition filed under this subsection.

(c) The PERB and an employer shall provide employees a liberal opportunity to participate in elections held under this chapter. If the parties agree, mail-in ballots may be used.

(d) Absentee ballots may be used in an election under this chapter.

Sec. 8. Other than in a runoff election, the ballot used for an election under this chapter must include a choice of "no union representation".

Sec. 9. Within ten (10) days after the PERB issues an order directing a representation proceeding under this article, the employer shall submit to each employee organization whose name will appear on the ballot the names and addresses of the employees entitled to participate in the representation proceeding under this chapter.

Sec. 10. An employer, an employee, or an employee organization may challenge an employee's right to vote in a representation proceeding. The PERB shall resolve the challenge under rules the PERB adopts.

Sec. 11. If, as a result of an election under this chapter:

(1) an employee organization receives a majority of the votes cast, the PERB shall certify that employee organization as the exclusive bargaining representative of the bargaining unit;

(2) the "no union representation" choice receives a majority of the votes cast, the PERB shall order that the bargaining unit will not be represented by an employee organization; or

(3) no choice receives a majority of the votes cast, the PERB shall order a runoff election:

(A) between the two (2) choices receiving the greatest number of votes; or

(B) if two (2) choices receive the second greatest number of votes, among the three (3) choices receiving the greatest number of votes.

Sec. 12. If, as the result of a runoff election under section 11(3)

C o p y

of this chapter:

(1) an employee organization receives a majority of the votes cast, the PERB shall certify that employee organization as the exclusive bargaining representative of the bargaining unit;

(2) the "no union representation" choice, if any, receives a majority of the votes cast, the PERB shall order that the bargaining unit will not be represented by an employee organization; or

(3) no choice receives a majority of the votes cast, the PERB shall order another runoff election:

(A) between the two (2) choices receiving the greatest number of votes; or

(B) if two (2) choices receive the second greatest number of votes, among the three (3) choices receiving the greatest number of votes.

Chapter 9. Decertification of Employee Organization as Exclusive Bargaining Representative

Sec. 1. An employee organization that has been certified as the exclusive bargaining representative of a bargaining unit shall be decertified as the exclusive bargaining representative of the bargaining unit under this chapter if a majority of the employees vote in a decertification proceeding under IC 5-32-8:

(1) not to be represented by an exclusive bargaining representative; or

(2) to be represented by a different employee organization.

Sec. 2. Petitions for decertification of an exclusive bargaining representative may be filed by an:

(1) employee; or

(2) employee organization.

Sec. 3. (a) The PERB shall, within thirty (30) days after a petition is filed under section 2 of this chapter, issue an order granting or denying the petition. If the PERB grants the petition, the PERB shall direct that a representation proceeding be held under IC 5-32-8.

(b) A petition submitted by an employee or employee organization must include the signatures of at least thirty percent (30%) of the employees within a bargaining unit who request:

(1) representation by an employee organization other than the current exclusive bargaining representative; or

(2) no representation by any employee organization.

(c) The PERB shall notify the recognized employee organization of a petition under this section.

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Chapter 10. Employer and Employee Rights

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

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

(2) Hire, classify, evaluate, promote, transfer, assign, and retain employees.

(3) Suspend, demote, reassign, or discharge employees for just cause.

(4) Maintain the efficiency of all governmental operations.

(5) Relieve an employee from duties because of a lack of work or funds.

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

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

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

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

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

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

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

(A) are not prohibited by law; and

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

(4) Refuse to join or participate in the activities of an employee organization, except for the payment of fair share fees and maintenance of membership in a collective bargaining agreement under this article.

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

Chapter 11. Prohibited Practices

Sec. 1. (a) It is a prohibited practice for an employer or the employer's designated representative to willfully do any of the following:

(1) Interfere with, restrain, or coerce any employee in the exercise of rights granted by this article.

C o p y

(2) Dominate or interfere in the lawful administration of any employee organization.

(3) Encourage or discourage membership in any employee organization by discrimination in hiring or other terms or conditions of employment.

(4) Discharge or discriminate against an employee because the employee has:

(A) filed an affidavit, a petition, or a complaint under this article;

(B) given information or testimony under this article; or

(C) formed, joined, or chosen to be represented by an employee organization.

(5) Refuse to bargain collectively on matters set forth in IC 5-32-12-4(a) with an exclusive bargaining representative of a bargaining unit.

(6) Refuse to execute a bargaining agreement previously agreed upon orally.

(7) Deny the rights accompanying certification granted in this article.

(8) Refuse to participate in good faith in any agreed upon impasse procedures or those required by IC 5-32-13 through IC 5-32-14.

(9) Engage in a lockout.

(10) Fail or refuse to comply with this article.

(b) The expression of any view, argument, or opinion or the dissemination of any view, argument, or opinion, whether in written, printed, graphic, visual, or oral form, does not constitute a prohibited practice under this article if the expression contains no threat of reprisal or force or promise of benefit.

Sec. 2. (a) It is a prohibited practice for an employee, an employee organization, or a representative of an employee or an employee organization to willfully do any of the following:

(1) Interfere with, restrain, coerce, or harass any employee in the lawful exercise of any of the employee's rights granted by this article.

(2) Interfere with, restrain, or coerce the employer in the lawful exercise of rights granted by this article or with respect to selecting a representative for negotiating collectively for the adjustment of grievances.

(3) Refuse to bargain collectively with the employer on matters set forth in IC 5-32-12-4(a).

(4) Refuse to participate in good faith in any agreed upon

C o p y

impasse procedures or those required by IC 5-32-13 through IC 5-32-14.

(5) Violate IC 5-32-16. This chapter applies in addition to IC 5-32-16.

(6) Picket in a manner that interferes with entrance to and exit from the facilities of the employer.

(7) Fail to meet the duty of fair representation under this chapter.

(8) Fail or refuse to comply with this article.

(b) The expression of any view, argument, or opinion or the dissemination of any view, argument, or opinion, whether in written, printed, graphic, visual, or oral form, does not constitute a prohibited practice under this article if the expression contains no threat of reprisal or force or promise of benefit.

Sec. 3. (a) An employer, an employee, or an employee organization may file a complaint with the PERB alleging that a prohibited practice has occurred. The complaint must:

(1) be filed with the PERB in writing on forms provided by the PERB;

(2) be filed not more than ninety (90) days after the alleged violation; and

(3) be served on the alleged violator in accordance with IC 4-21.5-3-1.

(b) Service under subsection (a)(3) shall be made on the office of the chief negotiator. The chief negotiator shall represent the executive branch with respect to any alleged prohibited practice.

Sec. 4. An alleged violator may file a written response to a complaint made under section 3 of this chapter. The response must be filed within twenty (20) days after service.

Sec. 5. (a) The PERB shall preliminarily review a complaint filed under section 3 of this chapter and shall:

(1) dismiss the complaint if the complaint has no basis in fact or fails to state a prohibited practice; or

(2) notify the complainant and the respondent of the date, time, and place of a hearing.

(b) Unless an alternative location is agreed to by the parties, a hearing held under this section shall be heard in Marion County.

(c) The PERB may use informal resolution procedures to aid the parties in resolving disputes brought under this chapter.

Sec. 6. After a hearing held under section 5 of this chapter, the PERB shall issue written findings. If the PERB finds that the violation occurred, the PERB may do the following:

C o p y

(1) Enter into a consent order with the violator under which the violator agrees to discontinue the violation.

(2) Order equitable remedies as the PERB determines are warranted, including but not limited to reinstatement and payment of back wages or benefits.

(3) Petition a circuit or superior court for injunctive relief.

Sec. 7. (a) An exclusive bargaining representative has a duty of fair representation to all employees within the collective bargaining unit.

(b) An exclusive bargaining representative who fails to comply with the representative's duty under subsection (a) commits a prohibited practice under this section if the exclusive bargaining representative's conduct toward an employee is:

(1) arbitrary;

(2) discriminatory; or

(3) in bad faith.

Chapter 12. Collective Bargaining

Sec. 1. An employer's duty to begin collective bargaining arises when the exclusive bargaining representative submits a written notice to the employer regarding a desire to enter into negotiations. Negotiations must begin within thirty (30) days after this notification unless the parties agree mutually to an alternative arrangement.

Sec. 2. (a) The parties shall determine a collective bargaining negotiations calendar and contract duration.

(b) A contract continues in effect until replaced by a successor agreement ratified by the parties.

(c) During this status quo period, in order to permit the successful resolution of the dispute, the employer may not unilaterally change the:

(1) terms; or

(2) conditions;

of employment that are issues in dispute.

Sec. 3. The parties shall not enter into any agreement that would place the employer in a position of deficit financing.

Sec. 4. (a) The parties shall negotiate in good faith concerning the following mandatory subjects of negotiation:

(1) Wages.

(2) Hours.

(3) Conditions of employment.

Conditions of employment must include but are not limited to fair share agreements, maintenance of membership, and dues checkoff,

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in accordance with IC 22-2-6-2(b)(5).

(b) Statutorily created retirement systems and retirement plans qualified under Section 401(a) or 403(b) of the Internal Revenue Code may not be the subject of negotiations under this article.

(c) Matters not specified in subsections (a) and (b) are discretionary subjects of negotiation.

Sec. 5. (a) With respect to impasse procedures, the employer and the exclusive bargaining representative shall include their positions in their respective initial bargaining positions under section 6 of this chapter. The impasse procedures must conclude in binding arbitration as described in IC 5-32-14, unless the exclusive bargaining representative chooses to be free of binding arbitration impasse resolution before bargaining begins by notifying:

(1) the PERB; and

(2) the chief negotiator or designee.

(b) Any impasse procedures agreed upon by the parties must provide for as much public access to proceedings and records as is provided for under IC 5-14-1.5, IC 5-14-3, IC 5-32-13, and IC 5-32-14.

(c) If the parties fail to agree upon impasse procedures under this section, the impasse procedures provided in IC 5-32-13 through IC 5-32-14 apply.

Sec. 6. The exclusive bargaining representative shall present the representative's initial bargaining position to the employer at the first bargaining session. The employer shall present the employer's initial bargaining position to the exclusive bargaining representative at the second bargaining session, which shall be held not later than fourteen (14) days following the first bargaining session.

Sec. 7. (a) A collective bargaining agreement may include a fair share agreement. A fair share agreement under this article consists of an agreement between the employer and an exclusive bargaining representative under which part or all of the employees in a bargaining unit are required to pay a share of the costs of the following:

(1) The collective bargaining process.

(2) The collective bargaining agreement administration.

(3) Other duties of the employee organization as the exclusive bargaining representative.

The amount paid as a fair share may not exceed the amount of dues uniformly required of members of the collective bargaining unit.

(b) A fair share payment may not include fees for contributions

C o p y

related to the election or support of any candidate for elected office.

(c) An employee may make a voluntary political contribution in addition to the employee's fair share payment.

Sec. 8. A collective bargaining agreement may include a maintenance of membership agreement between the employer and exclusive bargaining representative under which membership cannot be dropped until the termination date of the collective bargaining agreement.

Sec. 9. (a) Both bargaining sessions under section 6 of this chapter are subject to IC 5-14-1.5.

(b) IC 5-14-1.5 does not apply to negotiating sessions or mediation.

Sec. 10. A proposed bargaining agreement that is subject to ratification by the parties is confidential.

Sec. 11. (a) This section applies only to state employees and university employees. Notwithstanding IC 5-32-14-10, a provision of a collective bargaining agreement is not enforceable to the extent the agreement:

(1) is inconsistent with any appropriation by the general assembly or any other statutory limitation on the employer's funds, spending, or budget; or

(2) would substantially limit the performance of any statutory duty by the employer.

(b) If funds are not appropriated to meet the total compensation and benefit requirements of the collective bargaining agreements, the parties to those agreements shall immediately meet and negotiate alternative solutions designed to meet those agreements within the limitations of the total appropriations for compensation and benefits enacted by the general assembly.

(c) If the parties cannot agree to alternative solutions under subsection (b), the employer may implement the agreements within the limitations of the total appropriations for compensation and benefits enacted by the general assembly.

Sec. 12. (a) This section does not apply to the following:

(1) State employees or state employee bargaining units.

(2) Collective bargaining agreements that result from binding arbitration.

(b) The parties must ratify a proposed collective bargaining pact.

Chapter 13. Mediation and Factfinding

Sec. 1. (a) If:

C o p y

(1) an impasse procedures agreement has not been reached; or

(2) an impasse procedures agreement has been reached and a party fails to use impasse procedures;

upon the request of either party the PERB shall appoint a neutral as mediator.

(b) The mediator shall bring the parties together to attempt to effectuate a settlement of the dispute, although the mediator may not compel the parties to agree.

Sec. 2. (a) This section does not apply if either party has advised the other party and PERB in writing before the commencement of negotiations of the party's desire not to use a factfinder. Parties that do not use a factfinder shall proceed to binding arbitration if mediation does not resolve the impasse.

(b) If the impasse persists ten (10) days after the mediator has been appointed, the parties shall select a factfinder from a list of neutrals maintained by the PERB.

(c) A factfinder selected under this section:

(1) shall:

(A) conduct a hearing;

(B) make written findings and recommendations for resolution of the dispute based upon the factors to be used by arbitrators under IC 5-32-14-8; and

(C) deliver the findings and recommendations to the PERB, the employer, and the exclusive bargaining representative not later than fifteen (15) days after the date of the factfinder's appointment; and

(2) may:

(A) administer oaths; and

(B) request the PERB to issue subpoenas.

(d) The:

(1) employer; and

(2) exclusive bargaining representative;

shall meet in negotiations to determine if the recommendations of the factfinder provide a basis for resolution of the dispute.

(e) If the dispute continues ten (10) days after the report is submitted to the PERB under subsection (c), the report shall be made public by the PERB.

Sec. 3. The compensation and expenses of any mediator or factfinder shall be borne by the PERB.

Chapter 14. Binding Arbitration

Sec. 1. (a) If an impasse persists after the findings of fact and

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recommendations are made public by the PERB or if factfinding is not used and an impasse has persisted for ten (10) days after the appointment of a mediator:

(1) the parties may continue to negotiate; or

(2) the PERB shall, upon request of both parties, arrange for binding arbitration under this chapter.

(b) The request for binding arbitration must be in writing, and a copy of the request shall be served upon the other party.

(c) Notwithstanding subsection (a), if the parties have not agreed to a collective bargaining agreement by September 30 of an odd-numbered year, the PERB shall order the parties to initiate binding arbitration.

Sec. 2. (a) Each party shall submit to the PERB:

(1) a final offer on each of the unresolved issues with proof that a copy of the final order was served on the other party; and

(2) a copy of a draft of the proposed bargaining agreement to the extent agreement has been reached on an issue;

within seven (7) days after the request for or initiation of binding arbitration.

(b) The submission of the unresolved issues to the arbitrator shall be limited to issues:

(1) that had been considered by the factfinder if factfinding occurred; and

(2) upon which the parties have not reached agreement.

(c) All aspects of wages shall be treated as a single issue. All aspects of insurance shall be treated as a single issue. All other subjects of negotiations shall be classified by the arbitrator into not more than ten (10) broad categories, and each category shall be treated as a single issue.

(d) The parties may continue to negotiate all offers until an agreement is reached or a decision is rendered by the arbitrator.

(e) After the exchange of final offers, neither party may amend or modify the party's position on any unresolved issue without advance written approval from the other party.

Sec. 3. If the parties have not been able to select an arbitrator within seven (7) days after the request for binding arbitration, a list of five (5) arbitrators shall be submitted to the parties by the PERB. The parties shall select an arbitrator from that list in accordance with IC 5-32-2-9.

Sec. 4. The arbitrators shall not engage in an effort to mediate or otherwise settle the dispute in any manner other than that

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prescribed in this chapter.

Sec. 5. From the time of the arbitrator's appointment until the arbitrator makes a final determination, a party may not discuss recommendations for settlement of the dispute with the arbitrator. The arbitrator may consult with a party ex parte only with the concurrence of the other party.

Sec. 6. The arbitrator shall conduct a prehearing conference and may do the following:

(1) Determine whether the issues are ready for adjudication.

(2) Accept stipulations.

(3) Schedule hearings.

(4) Prescribe rules of conduct for the hearings.

(5) Order additional mediation.

(6) Take any other action that may aid in the disposition of the impasse.

Sec. 7. Unless the parties reached agreement at the prehearing conference, the arbitrator may do the following:

(1) Hold hearings and administer oaths.

(2) Examine witnesses and documents.

(3) Take testimony and receive evidence.

(4) Issue subpoenas to compel the attendance of witnesses and the production of records.

(5) Petition a circuit or superior court in Marion County or the county in which a hearing is held to enforce an order compelling the attendance of witnesses and the production of records.

Sec. 8. In making an award, the arbitrator shall consider the following factors in addition to any other relevant factors:

(1) Past collective bargaining agreements between the parties, including the bargaining that led up to the agreements.

(2) Comparison of wages, hours, and conditions of employment of the employees in the bargaining unit with those doing the same work in the public or private sector, giving consideration to factors peculiar to the area and the classifications involved.

(3) The interests and welfare of the public, the ability of the employer to finance economic adjustments, and the effect of the adjustments on the normal standard of services.

(4) Any other factor customarily considered in the negotiations of public sector labor agreements.

Sec. 9. (a) The arbitrator shall select, within fifteen (15) days or longer if agreed to by both parties after the arbitrator's first

C o p y

meeting, the most reasonable offer of:

(1) the final offers on each issue submitted by the parties; or

(2) the recommendations of the factfinder, if factfinding occurred;

on each unresolved issue.

(b) The arbitrator's selection with respect to a particular issue may not deviate from the final offer or factfinding recommendation, if any. The award must be accompanied by a written opinion. The arbitrator shall deliver copies of the opinion and the award to the parties and the PERB within thirty (30) days, or longer if agreed to by both parties, after the close of the final hearing in the matter.

Sec. 10. The selections by the arbitrator and the other issues agreed upon by the employer and the employee organization shall be the bargaining agreement between the parties. The agreement shall be considered final and binding upon the parties.

Sec. 11. The costs of an arbitrator shall be paid by the PERB, which shall be reimbursed by the two (2) parties to the arbitration under procedures for collection and payment established by the PERB.

Sec. 12. An arbitration award under this chapter is subject to judicial review under IC 4-21.5.

Chapter 15. Grievance Procedure

Sec. 1. A bargaining agreement must contain a grievance procedure culminating in binding arbitration of unresolved disputes over the interpretation or application of the collective bargaining agreement.

Sec. 2. A binding arbitration award with respect to a grievance may not:

(1) amend;

(2) add to; or

(3) subtract from;

provisions of the collective bargaining agreement or other unresolved disputes.

Sec. 3. The grievance arbitration provisions of bargaining agreements are subject to IC 34-57-2.

Sec. 4. The costs of arbitration under this chapter shall be shared equally by the parties.

Sec. 5. IC 5-14-1.5 applies to grievance arbitration proceedings under this chapter.

Chapter 16. Strikes

Sec. 1. (a) It is unlawful for an employee or employee

C o p y

organization to take part in or assist in a strike against an employer.

(b) Any employer may, in:

(1) an action at law;

(2) a suit in equity; or

(3) another proper proceeding;

take action against any employee or employee organization aiding or abetting in a strike for redress of the unlawful act.

(c) Whenever any employee organization or affiliate engages in a strike or aids or abets in the strike, the employer may petition a circuit or superior court in:

(1) the county where the violation has occurred; or

(2) Marion County;

for remedy against the employee organization. The exclusive remedy against the employee organization, including remedy for violations of IC 34-47, is loss of its dues deduction privilege for one (1) year.

(d) An employer shall not pay a public employee for any day when the public employee fails as a result of a strike to report for work as required by the employer.

Sec. 2. IC 22-6-1 does not apply to this article.

Sec. 3. IC 22-6-2 applies when in conflict with this article.

Chapter 17. Unit Determination and Selection of the Exclusive Representative

Sec. 1. Assignment of employees to units shall be made in the following manner:

(1) For employees under IC 5-32-1-10(a)(1), by mutual agreement of the state personnel director and the exclusive bargaining representative of the state employees for the job classification of the individual employee.

(2) For employees under IC 5-32-1-10(a)(2) or IC 5-32-1-10(a)(3), by the management designee and the exclusive bargaining representative.

Sec. 2. (a) If:

(1) the management designee and the exclusive bargaining representative cannot agree upon employee assignment to a unit; or

(2) an employee files a complaint to such an assigned unit with the PERB;

the proper assigned unit shall be determined by the PERB.

(b) The determination under subsection (a) shall be made by the PERB after a hearing, and the PERB's decision shall be based on

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but not be limited to the following considerations:

(1) Efficient administration of governmental operations.

(2) The existence of a community of interest among governmental employees.

(3) The effects on the governmental unit and governmental employees of fragmentation of units.

(4) Recommendations of the parties involved.

In making the determination, notice shall be given to all interested parties in accordance with the rules of the PERB, but the PERB need not follow IC 4-21.5.

SECTION 6. IC 20-29-5-6, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The school employer shall, on receipt of the written authorization of a school employee:

(1) deduct from the pay of the employee any dues **or assessments** designated or certified by the appropriate officer of a school employee organization that is an exclusive representative of any employees of the school employer; and

(2) remit the dues **or assessments** described in subdivision (1) to the school employee organization.

(b) Deductions under this section must be consistent with:

(1) IC 22-2-6;

(2) IC 22-2-7; and

(3) IC 20-28-9-18.

SECTION 7. IC 20-29-9-2, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A school corporation or school employer may in:

(1) an action at law;

(2) a suit in equity; or

(3) another proper proceeding;

take action against a ~~school employee organization, an affiliate of a school employee organization, or any~~ person aiding or abetting in a strike for redress of the unlawful act.

SECTION 8. IC 20-29-9-3, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. If an exclusive representative:

(1) engages in; or

(2) aids or abets in;

a strike, the ~~exclusive representative shall lose the exclusive representative's~~ **school employer or school corporation may petition a circuit or superior court in the county in which the violation has occurred or in Marion County for a remedy against the exclusive**

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representative. The exclusive remedy against the exclusive representative, including remedy for violations of IC 34-47, is loss of the dues deduction privilege **for the exclusive representative** for one (1) year.

SECTION 9. [EFFECTIVE JULY 1, 2009] **(a) Notwithstanding IC 5-32-2-2, as added by this act, the terms of the persons initially appointed to the public employees relations board established by IC 5-32-2-1, as added by this act, are as follows:**

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

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

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

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

(b) The governor shall make the initial appointments to the public employees relations board not later than July 15, 2009.

(c) This SECTION expires July 15, 2013.

SECTION 10. [EFFECTIVE JULY 1, 2009] **(a) Notwithstanding IC 5-32-2-8(b) and IC 5-32-8-10, both as added by this act, the public employees relations board established by IC 5-32-2-1, as added by this act, shall carry out the board's duties under IC 5-32-2-8(b) and IC 5-32-8-10, both as added by this act, under interim written guidelines approved by the governor.**

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

(1) The date rules are adopted under IC 5-32-2-8(b) and IC 5-32-8-10, both as added by this act.

(2) January 1, 2011.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1057, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

NIEZGODSKI, Chair

Committee Vote: yeas 6, nays 4.

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