

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES:	7
NO:	5

MR. SPEAKER:

*Your Committee on Education, to which was referred Senate Bill 575, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Replace the effective dates in SECTIONS 1 through 23 with
- 2 "[EFFECTIVE UPON PASSAGE]".
- 3 Page 3, line 13, after "grant" insert "**outside the school funding**
- 4 **formula**".
- 5 Page 3, line 14, after "period" insert "**or purpose**".
- 6 Page 3, line 17, after "grant" insert "**outside the school funding**
- 7 **formula**".
- 8 Page 3, line 18, delete "." and insert "**or purpose**".
- 9 Page 3, line 41, strike "or other".
- 10 Page 3, line 42, strike "employment related benefits".
- 11 Page 6, between lines 2 and 3, begin a new paragraph and insert:
- 12 "SECTION 7. IC 20-29-2-6, AS ADDED BY P.L.1-2005, SECTION
- 13 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON

1 PASSAGE]: Sec. 6. "Deficit financing" for a budget year means **actual**
 2 expenditures exceeding the ~~money legally available to the employer:~~
 3 **employer's current year actual general fund revenue."**

4 Page 6, delete lines 3 through 12, begin a new paragraph and insert:
 5 "SECTION 9. IC 20-29-4-1, AS ADDED BY P.L.1-2005, SECTION
 6 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 7 PASSAGE]: Sec. 1. School employees may:

- 8 (1) form, join, or assist school employee organizations;
 9 (2) participate in collective bargaining with school employers
 10 through representatives of their own choosing; and
 11 (3) engage in other activities, individually or in concert;
 12 to establish, maintain, or improve salaries, wages, hours, salary and
 13 wage related fringe benefits, and other matters set forth in IC 20-29-6-4
 14 **and IC 20-29-6-5. and IC 20-29-6-7.**

15 SECTION 2. IC 20-29-4-3, AS ADDED BY P.L.1-2005, SECTION
 16 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 17 PASSAGE]: Sec. 3. School employers have the responsibility and
 18 authority to manage and direct on behalf of the public the operations
 19 and activities of the school corporation to the full extent authorized by
 20 law, including but not limited to the following:

- 21 (1) Direct the work of the school employer's employees.
 22 (2) Establish policy through procedures established in
 23 IC 20-29-6-4 **and IC 20-29-6-5. and IC 20-29-6-7.**
 24 (3) Hire, promote, demote, transfer, assign, and retain employees.
 25 ~~through procedures established in IC 20-29-6-4, IC 20-29-6-5,~~
 26 ~~and IC 20-29-6-7.~~
 27 (4) Suspend or discharge employees in accordance with
 28 applicable law through procedures established in ~~IC 20-29-6-4,~~
 29 ~~IC 20-29-6-5, and IC 20-29-6-7. under state law.~~
 30 (5) Maintain the efficiency of school operations.
 31 (6) Relieve employees from duties because of lack of work or
 32 other legitimate reason through procedures established in
 33 IC 20-29-6-4, IC 20-29-6-5, and IC 20-29-6-7.
 34 (7) Take actions necessary to carry out the mission of the public
 35 schools as provided by law."

36 Page 6, line 19, after "created" insert "**district wide**".

37 Page 6, between lines 27 and 28, begin a new paragraph and insert:
 38 **"(c) The percentage of teacher positions the exclusive**

1 **representative may appoint to serve on a statutory or locally**
 2 **created school wide committee may not exceed the percentage of**
 3 **teachers in the school who are members of the exclusive**
 4 **representative. If multiplying the number of teacher positions on**
 5 **the committee by the percentage of teachers in the school who are**
 6 **members of the exclusive representative does not produce a whole**
 7 **number, the product must be rounded up to the nearest whole**
 8 **number. The percentage of positions applies to the number of**
 9 **teacher positions on a committee and not to the total number of**
 10 **positions on a committee."**

11 Page 6, line 28, delete "(c)" and insert "(d)".

12 Page 6, line 28, delete ":".

13 Page 6, line 29, delete "(1)".

14 Page 6, line 29, delete "; and".

15 Page 6, delete line 30.

16 Page 6, run in lines 28 through 31.

17 Page 6, line 32, delete "is not a violation of the school employer's or
 18 the".

19 Page 6, line 33, delete "exclusive representative's duty to discuss
 20 under this article, and".

21 Page 6, line 34, delete "." and insert "**as it relates to the**
 22 **appointment of the teacher committee members.**

23 **(e) By September 15 of each school year, the local president or**
 24 **other officer or designee of the exclusive representative shall**
 25 **certify by affidavit to the school employer the number of teachers**
 26 **in each school and in the entire school corporation who are**
 27 **members of the exclusive representative."**

28 Page 6, between lines 34 and 35, begin a new paragraph and insert:
 29 "SECTION 11. IC 20-29-6-1, AS ADDED BY P.L.1-2005,
 30 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 1. School employers and school employees
 32 shall:

33 (1) have the obligation and the right to bargain collectively the
 34 items set forth in section 4 of this chapter;

35 (2) have the right and obligation to discuss any item set forth in
 36 section 7 of this chapter; and

37 (3) enter into a contract embodying any of the matters **listed in**
 38 **section 4 of this chapter** on which they have bargained

- 1 collectively."
- 2 Page 7, line 11, delete "June 30, 2011," and insert "**the effective**
- 3 **date of section 4.5 of this chapter**".
- 4 Page 7, line 14, delete "June 30, 2011." and insert "**the effective**
- 5 **date of section 4.5 of this chapter**".
- 6 Page 7, line 19, delete ", including but not limited to a reduction in
- 7 the" and insert "**due to a reduction in the employer's actual general**
- 8 **fund revenue or an increase in the employer's expenditures when**
- 9 **the expenditures exceed the employer's current year actual general**
- 10 **fund revenue**".
- 11 Page 7, delete lines 20 through 21.
- 12 Page 7, line 27, after "4." insert "(a)".
- 13 Page 7, strike line 31.
- 14 Page 7, line 32, strike "(4)" and insert "(3)".
- 15 Page 7, line 33, after "other" insert "**vision, life, disability**".
- 16 Page 7, between lines 34 and 35, begin a new paragraph and insert:
- 17 "**(b) Salary and wages include the amounts of pay increases**
- 18 **available to employees under the salary scale adopted under**
- 19 **IC 20-28-9-1, but do not include the teacher evaluation procedures**
- 20 **and criteria, or any components of the teacher evaluation plan,**
- 21 **rubric, or tool**".
- 22 Page 7, line 40, delete "calendar, other than on the total number of"
- 23 and insert "**calendar**".
- 24 Page 7, delete line 41.
- 25 Page 8, between lines 10 and 11, begin a new line block indented
- 26 and insert:
- 27 **(6) Any subject not expressly listed in section 4 of this**
- 28 **chapter**".
- 29 Page 8, between lines 13 and 14, begin a new paragraph and insert:
- 30 "SECTION 14. IC 20-29-6-5, AS ADDED BY P.L.1-2005,
- 31 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 32 UPON PASSAGE]: Sec. 5. A contract entered into under this chapter
- 33 may contain a grievance procedure. ~~culminating in final and binding~~
- 34 ~~arbitration of unresolved grievances. However, the binding arbitration~~
- 35 ~~has no power to amend, add to, subtract from, or supplement provisions~~
- 36 ~~of the contract~~".
- 37 Page 8, line 16, strike "(a)".
- 38 Page 8, line 35, delete "." and insert ", **except those items required**

- 1 **to be kept confidential by state or federal law.**
- 2 **(10) Hours."**
- 3 Page 8, line 36, delete "(b) For an agreement entered into before
- 4 July 1, 2011,".
- 5 Page 8, line 36, strike "items".
- 6 Page 8, strike lines 37 through 39, begin a new paragraph and insert:
- 7 "SECTION 15. IC 20-29-6-8, AS ADDED BY P.L.1-2005,
- 8 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 UPON PASSAGE]: Sec. 8. The obligation to discuss does not require
- 10 either party to enter into a contract, agree to a proposal, or make a
- 11 concession **related to the items listed in section 7 of this chapter.** A
- 12 failure to reach an agreement on a matter of discussion does not ~~require~~
- 13 **allow** the use of any part of the impasse procedure under IC 20-29-8.".
- 14 Page 8, line 42, strike "Collective" and insert "**Formal collective**".
- 15 Page 9, line 1, strike "not later than" and insert "**before August 1 in**
- 16 **the first year of the state budget biennium. Informal negotiations**
- 17 **may be held before August 1."**
- 18 Page 9, line 3, delete "May 1 of the last year of the state budget".
- 19 Page 9, delete lines 4 through 6, begin a new paragraph and insert:
- 20 "SECTION 17. IC 20-29-6-12.5 IS ADDED TO THE INDIANA
- 21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 22 [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. Within thirty (30) days**
- 23 **after the date of the first state ADM count date of the school year**
- 24 **in the first year of the state budget biennium, the department shall**
- 25 **provide the parties with a certification of general fund revenue**
- 26 **available for bargaining. This certification must be the basis for**
- 27 **determinations throughout impasse proceedings under this**
- 28 **chapter."**
- 29 Page 9, line 9, after "13." insert "**(a)**".
- 30 Page 9, line 11, after "of" insert "**formal**".
- 31 Page 9, line 12, after "parties," insert "**an impasse is declared,**
- 32 **and**".
- 33 Page 9, line 12, reset in roman "a mediator".
- 34 Page 9, line 12, delete "an arbitrator".
- 35 Page 9, line 13, delete "staff" and insert "**staff**".
- 36 Page 9, line 13, strike "if either party declares an impasse".
- 37 Page 9, line 20, delete "in the collective".
- 38 Page 9, delete line 21, begin a new paragraph and insert:

1 **"(b) The mediator shall begin mediation with fifteen (15) days**
 2 **after the board receives notice of impasse.**

3 **(c) The mediation must consist of not more than three (3)**
 4 **mediation sessions and must result in one (1) of the following:**

5 **(1) An agreement between the parties on the items permitted**
 6 **to be bargained under section 4 of this chapter.**

7 **(2) Each party's last best offer, including fiscal rationale,**
 8 **related to items permitted to be bargained under section 4 of**
 9 **this chapter.**

10 **(d) Costs for the mediator shall be borne equally by the parties.**

11 **(e) Mediation shall be completed within thirty (30) days.**

12 SECTION 18. IC 20-29-6-15, AS ADDED BY P.L.1-2005,
 13 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 15. **(a) If an agreement has not been reached**
 15 **on the items permitted to be bargained collectively under section 4 of**
 16 **this chapter, within fifteen (15) ~~forty-five (45)~~ days before the**
 17 **submission date of a budget by a school employer, after mediation**
 18 **under section 13 of this chapter has ended, the board shall initiate**
 19 **factfinding.**

20 **(b) Factfinding must culminate in the factfinder imposing**
 21 **contract terms on the parties. The factfinder's order must be**
 22 **restricted to only those items permitted to be bargained and**
 23 **included in the collective bargaining agreement under section 4 of**
 24 **this chapter and must not put the employer in a position of deficit**
 25 **financing, as defined in IC 20-29-2-6. The factfinder's order may**
 26 **not impose terms beyond those proposed by the parties in their**
 27 **last, best offers.**

28 **(c) Costs for the factfinder shall be borne equally by the parties.**

29 **(d) Factfinding may not last longer than fifteen (15) days.**

30 SECTION 19. IC 20-29-6-16, AS ADDED BY P.L.1-2005,
 31 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 16. **(a) If an agreement has not been reached**
 33 **on the items to be bargained collectively by November 1, as provided**
 34 **in IC 6-1.1-17-5, ~~fourteen (14)~~ days before the submission date of a**
 35 **budget by a school employer, the parties shall continue the status quo,**
 36 **and the school employer may issue tentative individual contracts and**
 37 **prepare its budget on that basis. During this status quo period, in order**
 38 **to allow the successful resolution of the dispute, the school employer**

1 may not unilaterally change the terms or conditions of employment that
2 are issues in dispute.

3 **(b) During the bargaining process, the school employer shall**
4 **continue under the terms of the current contract that is in effect,**
5 **with no increase or increment in salary, wages, or benefits for any**
6 **bargaining unit employee until a new contract is executed, unless**
7 **continuation of the status quo would put the school employer in a**
8 **position of deficit financing due to a reduction in the employer's**
9 **actual general fund revenue or an increase in an employer's**
10 **expenditures when the expenditures exceed the current year actual**
11 **general fund revenue.**

12 **(c) The only parts of the contract that must continue in status**
13 **quo under this section are the items contained in the contract and**
14 **listed in section 4 of this chapter.**

15 ~~(b)~~ **(d)** This section may not be construed as relieving the school
16 employer or the school employee organization from the duty to bargain
17 collectively until a mutual agreement has been reached and a contract
18 entered as called for in this chapter."

19 Page 10, between lines 12 and 13, begin a new paragraph and insert:

20 "SECTION 21. IC 20-29-8-5, AS ADDED BY P.L.1-2005,
21 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 5. The purpose of factfinding is to ~~give a~~
23 ~~neutral advisory opinion~~ **provide a final solution on the items**
24 **permitted to be bargained under IC 20-29-6-4** whenever the parties
25 are unable by themselves, or through a mediator, to resolve a dispute.

26 SECTION 6. IC 20-29-8-7, AS ADDED BY P.L.1-2005, SECTION
27 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
28 PASSAGE]: Sec. 7. (a) When a factfinder is requested or required
29 under IC 20-29-6, the board shall appoint a factfinder from the staff or
30 panel established under section 6 of this chapter.

31 (b) The factfinder shall make an investigation and hold hearings as
32 the factfinder considers necessary in connection with a dispute.

33 (c) The factfinder:

34 **(1) may restrict the factfinder's findings to those issues that the**
35 **factfinder determines significant;**

36 **(2) must restrict the findings to the items listed in**
37 **IC 20-29-6-4; and**

38 **(3) may not impose terms beyond those proposed by the**

1 **parties in their last, best offers.**

2 (d) The factfinder may use evidence furnished to the factfinder by:

- 3 (1) the parties;
 4 (2) the board;
 5 (3) the board's staff; or
 6 (4) any other state agency.

7 **(e) The factfinder shall conduct the factfinding hearing in public**
 8 **in a room or facility owned by the county or local unit of**
 9 **government located in the county in which the school employer is**
 10 **located, or if the school employer is located in more than one (1)**
 11 **county, in the county in which the greatest number of students who**
 12 **attend the school employer's schools reside. The public hearing**
 13 **may begin not earlier than October 1 in the first year of the state**
 14 **budget biennium and must be concluded by December 31 of the**
 15 **same year.**

16 **(f) The factfinding process may not exceed fifteen (15) days from**
 17 **beginning to end, and not more than two (2) of those days may be**
 18 **used for public testimony, which may be taken at the discretion of**
 19 **the factfinder. During the public hearing, each party shall present**
 20 **fully its last, best offer, including the fiscal rationale for the offer.**
 21 **Only general operating funds under the state funding formula and**
 22 **certified by the department of education may be considered as a**
 23 **source of the finding for items, unless the school funding formula**
 24 **allows other funds to be used for certain items.**

25 ~~(e)~~ **(g)** The factfinder shall make a recommendation as to the
 26 settlement of the disputes over which the factfinder has jurisdiction.

27 ~~(f)~~ **(h)** The factfinder shall:

- 28 (1) make the investigation, hearing, and findings as expeditiously
 29 as the circumstances permit; and
 30 (2) deliver the findings to the parties and to the board.

31 ~~(g)~~ **(i)** The board, after receiving the findings and recommendations,
 32 may make additional findings and recommendations to the parties
 33 based on information in:

- 34 (1) the report; or
 35 (2) the board's own possession.

36 **The board may not make any recommendations to the parties**
 37 **related to any items not specifically identified in IC 20-29-6-4.**

38 ~~(h)~~ **(j)** At any time within five (5) days after the findings and

1 recommendations are delivered to the board, the board may make the
 2 findings and recommendations of the factfinder and the board's
 3 additional findings and recommendations, if any, available to the
 4 public through news media and other means the board considers
 5 effective.

6 ~~(i)~~ **(k)** The board shall make the findings and recommendations
 7 described in subsection ~~(i)~~ **(j)** available to the public not later than ten
 8 (10) days after the findings and recommendations are delivered to the
 9 board.

10 SECTION 7. IC 20-29-8-8, AS ADDED BY P.L.1-2005, SECTION
 11 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 12 PASSAGE]: Sec. 8. In conducting hearings and investigations, the
 13 factfinder is not bound by IC 4-21.5. The factfinder shall, however,
 14 consider the following factors:

15 (1) Past memoranda of agreements and contracts between the
 16 parties.

17 (2) Comparisons of wages and hours of the employees involved
 18 with wages of other employees working for other public agencies
 19 and private concerns doing comparable work, giving
 20 consideration to factors peculiar to the school corporation.

21 (3) The public interest.

22 (4) The financial impact on the school corporation and whether
 23 any settlement will cause the school corporation to engage in
 24 deficit financing **as described in IC 20-29-6-3.**

25 SECTION 8. IC 20-29-8-10, AS ADDED BY P.L.1-2005,
 26 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 UPON PASSAGE]: Sec. 10. A person who has served as a mediator in
 28 a dispute between a school employer and an exclusive representative
 29 may not serve as a factfinder ~~or an arbitrator~~ in a dispute arising in the
 30 same school corporation within a period of five (5) years except by the
 31 mutual consent of the parties."

32 Page 10, between lines 19 and 20, begin a new paragraph and insert:

33 "SECTION 9. IC 20-29-8-13, AS ADDED BY P.L.1-2005,
 34 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 13. (a) The investigation, hearing, and
 36 findings of the factfinder must be:

37 (1) made as expeditiously as the circumstances allow; and

38 (2) delivered to the parties and to the board.

1 (b) The board, after receiving the findings and recommendations
 2 under subsection (a), may make additional findings and
 3 recommendations to the parties based upon information in the report
 4 or in the board's possession. **The board may not make any**
 5 **recommendations to the parties related to any items not**
 6 **specifically identified in IC 20-29-6-4 and may not address items**
 7 **beyond those proposed by the parties in their last, best offers.**

8 (c) The board:

9 (1) may, at any time within five (5) days; and

10 (2) shall, within ten (10) days;

11 after receiving the findings and recommendations delivered under
 12 subsection (a), make the findings and recommendations of the
 13 factfinder and the board's additional findings and recommendations, if
 14 any, available to the public through the news media and any other
 15 means."

16 Page 10, delete lines 20 through 42.

17 Page 11, delete lines 1 through 24.

18 Page 12, line 14, delete "IC 20-29-6-16;"

19 Page 12, line 16, delete "IC 20-29-8-5;"

20 Page 12, line 16, delete "IC 20-29-8-7; IC 20-29-8-8;"

21 Page 12, after line 18, begin a new paragraph and insert:

22 "SECTION 28. [EFFECTIVE UPON PASSAGE] (a)
 23 **Notwithstanding IC 20-29-3-5, the current terms of the members**
 24 **of the Indiana education relations board are terminated effective**
 25 **upon passage of this act.**

26 (b) **The governor shall obtain recommendations from the**
 27 **speaker of the Indiana house of representatives and the president**
 28 **pro tempore of the Indiana senate concerning the appointment of**
 29 **members to replace the members described in subsection (a). If**
 30 **either fails to submit recommendations to the governor within sixty**
 31 **(60) days after the governor's request, the governor shall make the**
 32 **appointments without recommendation by the speaker or president**
 33 **pro tempore.**

34 (c) **The terms of the members appointed under subsection (b)**
 35 **must begin not later than July 1, 2011.**

36 SECTION 29. **An emergency is declared for this act."**

37 Renumber all SECTIONS consecutively.

(Reference is to SB 575 as reprinted February 18, 2011.)

and when so amended that said bill do pass.

Representative Behning