
HOUSE BILL No. 1540

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-27; IC 4-15; IC 4-21.5-2-7; IC 5-14-1.5-6.5.

Synopsis: Collective bargaining for public employees. Permits certain governmental employees and noncertificated employees of school corporations to form and join unions and to select exclusive bargaining representatives entitled to bargain collectively. Establishes a five member public employees relations board charged with certain administrative and adjudicatory responsibilities. Establishes a procedure for the selection of exclusive bargaining representatives. Provides a procedure controlling the decertification of exclusive bargaining representatives. Establishes certain employer and employee rights. Specifies prohibited practices and establishes a procedure for penalizing prohibited practices. Requires the employer to bargain collectively when an exclusive representative has been certified. Establishes negotiation, mediation, factfinding, and binding arbitration procedures. Requires the submission of unresolved issues to an arbitrator. Requires a grievance procedure to be included in each collective bargaining agreement. Makes strikes by certain public employees unlawful. Establishes an expedited judicial procedure to enjoin strikes. Establishes penalties for strikes, including termination of striking employees, decertification of a striking union, and financial penalties.

Effective: Upon passage; July 1, 2001.

Fry, Liggett

January 11, 2001, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 112th General Assembly (2001)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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HOUSE BILL No. 1540



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:

1 SECTION 1. IC 5-27 IS ADDED TO THE INDIANA CODE AS A
2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**
3 **2001]:**

ARTICLE 27. COLLECTIVE BARGAINING

Chapter 1. Definitions

6 **Sec. 1. The definitions in this chapter apply throughout this**
7 **article.**

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

12 **Sec. 3. "Binding arbitration" refers to the procedures**
13 **prescribed under IC 5-27-14 and IC 5-27-15 under which parties**
14 **involved in an impasse or a grievance submit their differences to**
15 **a third party for a decision.**

16 **Sec. 4. "Chief negotiator" means the individual appointed to**
17 **serve as the bargaining representative of the employer.**



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

- 2 (1) who works in the personnel office of the employer;
- 3 (2) who has access to confidential or discretionary
- 4 information that may be used by the employer in negotiating
- 5 a collective bargaining agreement under this article;
- 6 (3) who works in a close and continuing working relationship
- 7 with:
- 8 (A) an individual holding elective office; or
- 9 (B) individuals who represent the employer in negotiations
- 10 under this article;
- 11 (4) whose:
- 12 (A) functional responsibilities; or
- 13 (B) knowledge;
- 14 concerning employee relations makes the employee's
- 15 membership in an employee organization incompatible with
- 16 the employee's duties; or
- 17 (5) who is a personal secretary of:
- 18 (A) the chief administrative or executive officer of an
- 19 agency;
- 20 (B) a deputy or an assistant to the chief administrative or
- 21 executive officer of an agency; or
- 22 (C) an individual holding elected office.

23 **Sec. 6. "Eligible political subdivision" means the following:**

- 24 (1) A county, city, town, or township (as defined in IC 36-1-2)
- 25 that:
- 26 (A) has a population of less than five thousand (5,000) and
- 27 has adopted an ordinance or passed a resolution under
- 28 IC 5-27-3-2; or
- 29 (B) has a population of at least five thousand (5,000).
- 30 (2) A school corporation (as defined in IC 20-10.1-1-1)
- 31 regarding the school corporation's noncertificated employees
- 32 (as defined in IC 20-7.5-1-2(g)).

33 **Sec. 7. "Employee" means an individual who is employed by an**

34 **employer, unless the individual is any of the following:**

- 35 (1) An intermittent, a temporary, or a student employee.
- 36 (2) A member of a board or commission.
- 37 (3) A confidential employee.
- 38 (4) A supervisor.
- 39 (5) A managerial employee.
- 40 (6) A patient or resident of a state institution.
- 41 (7) An individual in the custody of the department of
- 42 correction.



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- 1 **(8) The chief administrative or executive officer of an agency.**
- 2 **(9) An attorney whose responsibilities include the providing**
- 3 **of legal advice or the performance of legal research.**
- 4 **(10) A physician or a dentist.**
- 5 **(11) An administrative law judge.**
- 6 **(12) An individual who performs internal investigations.**
- 7 **(13) A neutral.**
- 8 **(14) An employee of an eligible political subdivision who is not**
- 9 **included for coverage under this article under the terms of an**
- 10 **ordinance or a resolution adopted under IC 5-27-3-2.**
- 11 **However, this does not include a noncertificated employee of**
- 12 **a school corporation.**
- 13 **(15) A local public safety officer.**
- 14 **(16) A professional employee of the department of commerce**
- 15 **who participates in economic development matters.**
- 16 **Sec. 8. "Employee organization" means an organization:**
- 17 **(1) in which employees participate; and**
- 18 **(2) that exists in whole or in part for the purpose of dealing**
- 19 **with an employer concerning wages, hours, settlement of**
- 20 **grievances, and other terms and conditions of employment.**
- 21 **Sec. 9. (a) "Employer" means the following:**
- 22 **(1) The executive branch.**
- 23 **(2) A state educational institution (as defined in**
- 24 **IC 20-12-0.5-1).**
- 25 **(3) An eligible political subdivision.**
- 26 **(b) The term does not include any of the following:**
- 27 **(1) The senate, the house of representatives, the legislative**
- 28 **services agency, or any commission or agency of the**
- 29 **legislative department of the state.**
- 30 **(2) The judicial department of government, including any**
- 31 **commission or agency of the judicial department.**
- 32 **(3) A school corporation, as to the school corporation's**
- 33 **certificated employees.**
- 34 **(4) Unless specifically included under section 11 of this**
- 35 **chapter, the office of an individual holding an elected office.**
- 36 **(5) Bodies corporate and politic.**
- 37 **(6) The budget agency.**
- 38 **(7) Uniformed members of the national guard.**
- 39 **(8) The state personnel department.**
- 40 **(9) The public employees relations board.**
- 41 **(10) The education employment relations board.**
- 42 **(11) The state board of accounts.**

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1 **Sec. 10. "Exclusive bargaining representative"** means an
 2 employee organization that has been certified as the result of a
 3 representation proceeding under IC 5-27-8 to be the sole
 4 representative of the members of a bargaining unit.

5 **Sec. 11. "Executive branch"** means the following:

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

8 (2) Those agencies under the direct authority of any other
 9 elected state officer electing coverage under IC 5-27-3-1.

10 **Sec. 12. "Factfinding"** means the procedure by which a neutral
 11 makes findings of fact and recommendations for resolution of an
 12 impasse under IC 5-27-13.

13 **Sec. 13. "Impasse"** means the failure of the employer and an
 14 exclusive bargaining representative to reach agreement during the
 15 course of negotiations.

16 **Sec. 14. "Intervening employee organization"** means an
 17 employee organization that demonstrates to PERB a showing of
 18 interest of at least ten percent (10%) of the members of a
 19 bargaining unit.

20 **Sec. 15. "Issue"** means broad subjects of negotiation that are
 21 presented to an arbitrator under IC 5-27-14.

22 **Sec. 16. "Local public safety officers"** means all police officers
 23 and firefighters employed by a political subdivision.

24 **Sec. 17. "Managerial employee"** means an individual who is:

25 (1) engaged predominantly in executive and management
 26 functions; or

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

29 **Sec. 18. "Mediation"** means assistance by an impartial third
 30 party to reconcile an impasse through persuasion, suggestion, and
 31 advice.

32 **Sec. 19. "Neutral"** includes the following:

33 (1) Factfinder.

34 (2) Arbitrator.

35 (3) Mediator.

36 **Sec. 20. "PERB"** refers to the public employees relations board
 37 established by IC 5-27-2-1.

38 **Sec. 21. "State employee"** means an employee of the executive
 39 branch.

40 **Sec. 22. "Strike"** means a public employee's:

41 (1) refusal to report to duty;

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

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1 area;

2 (3) stoppage of work; or

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

6 in concerted action with other persons or public employees without
7 the lawful approval of the employer.

8 Sec. 23. "Supervisor" means an individual having authority in
9 the interest of the employer to hire, transfer, suspend, lay off,
10 recall, promote, discharge, assign, reward, or discipline other
11 employees, or responsibly to direct them, or to adjust their
12 grievances, or effectively to recommend such action, if, in
13 connection with the foregoing, the exercise of such authority is not
14 of a merely routine or clerical nature, but requires the use of
15 independent judgment.

16 Sec. 24. "Temporary employee" means an individual who is
17 employed in a temporary position for not more than ninety (90)
18 days.

19 Sec. 25. "University employee" means an employee of a state
20 educational institution (as defined in IC 20-12-0.5-1).

21 Chapter 2. Public Employees Relations Board

22 Sec. 1. The public employees relations board is established.

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

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 member of the PERB to
33 serve as the chairman.

34 Sec. 5. (a) Each member of the PERB is entitled to compensation
35 as fixed by the state personnel director, subject to the approval of
36 the budget agency.

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



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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 prohibited practices complaints under IC 5-27-11.**
- (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.**

Sec. 8. 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 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) Adopt rules under IC 4-22-2 to carry out this article.**
- (3) Use full-time employees or establish a panel of individuals to provide mediation services.**
- (4) Contract for the services of private legal counsel to represent the PERB in legal proceedings.**
- (5) Contract for the services of other professionals.**
- (6) Designate a PERB member or other individuals as administrative law judges.**
- (7) Use the services of volunteers.**
- (8) Issue subpoenas and subpoenas duces tecum.**
- (9) Hold hearings.**
- (10) Do all things necessary 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 officer's employees to be subject to this article by submitting a

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1 written notice to the PERB.

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

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

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

8 (1) may not be repealed; and

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

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

16 Sec. 2. (a) The legislative body of a:

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

18 (2) township may pass a resolution;

19 concerning the applicability of this article to the county, city, town,
20 or township. If an ordinance is adopted or resolution is passed
21 under this subsection, the county, city, town, or township is an
22 eligible political subdivision for purposes of this article.

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

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

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

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

31 (1) may not be repealed; and

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

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

41 Chapter 4. State Employee Bargaining Units

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

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1 **Sec. 2. (a) An employee must be included under one (1) of the**
 2 **eleven (11) bargaining units as follows:**

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

- 4 **(A) Carpenters.**
 5 **(B) Electricians.**
 6 **(C) Plumbers.**
 7 **(D) Print shop workers.**
 8 **(E) Auto mechanics.**
 9 **(F) Maintenance workers.**
 10 **(G) Similar classes.**

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

- 14 **(A) Typists.**
 15 **(B) Secretaries.**
 16 **(C) Account clerks.**
 17 **(D) Computer operators.**
 18 **(E) Office service personnel.**
 19 **(F) Personnel who provide support services to**
 20 **professionals.**
 21 **(G) Other nonprofessional employees who do not meet the**
 22 **standards of other nonprofessional units.**

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

- 26 **(A) Tax examiners.**
 27 **(B) Driver's license examiners.**
 28 **(C) Meat inspectors.**
 29 **(D) Similar classes.**

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

- 32 **(A) Licensed practical nurses.**
 33 **(B) Nursing aides.**
 34 **(C) Psychiatric attendants.**
 35 **(D) Therapy aides.**
 36 **(E) Claims takers.**
 37 **(F) Assistant caseworkers.**
 38 **(G) Similar classes.**

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

- 42 **(A) Revenue auditors.**

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

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1 department.

2 (B) Conservation officers of the department of natural

3 resources.

4 (C) Excise police of the Indiana alcoholic beverage

5 commission.

6 (12) Teachers at state institutions whose compensation is

7 determined under any of the following:

8 (A) IC 11-10-5-4.

9 (B) IC 16-19-6-7.

10 (C) IC 12-24-3-4.

11 (b) No other bargaining unit, other than those listed in

12 subsection (a), may be established by the PERB.

13 Sec. 3. The director of the state personnel department shall

14 determine the assignment of each state employee, based on the

15 state employee's job classification, to a bargaining unit under

16 section 2 of this chapter unless a state employee or an employee

17 organization challenges the assignment.

18 Sec. 4. (a) If a state employee or an employee organization

19 challenges a determination under section 3 of this chapter by filing

20 a bargaining unit amendment and clarification petition under

21 IC 5-27-8, the assignment is void and the PERB shall determine the

22 appropriate assignment.

23 (b) In determining the appropriateness of the assignment of a

24 state employee to a unit in section 2 of this chapter, the PERB shall

25 consider the following:

26 (1) The principles of efficient administration of government,

27 including limiting the fragmentation of government

28 administrative authority.

29 (2) The existence of a community of interest among the

30 employees assigned to the bargaining unit.

31 (3) The recommendations of the parties involved.

32 Sec. 5. Each bargaining unit under this chapter must be

33 established on a statewide basis.

34 Chapter 5. Bargaining Unit Determination

35 Sec. 1. This chapter does not apply to state employees or state

36 employee bargaining units.

37 Sec. 2. (a) An employee, employer, or employee organization

38 may file a petition with the PERB seeking the determination of an

39 appropriate bargaining unit.

40 (b) A petition may be filed under this section even if no

41 representation petition is pending under IC 5-27-8. If a

42 representation petition is pending concerning any of the employees,

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the PERB may combine the petitions.

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

Sec. 4. An employee of a state educational institution 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 5-27-8.

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.

(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 5-27-8.

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 recognition by submitting a petition to the PERB. The petition

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1 must include supporting data and documentation concerning the
2 employee organization's previous representation of the bargaining
3 unit.

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

- 6 (1) the PERB has given notice to the employer and to
7 employees affected by the petition;
- 8 (2) the employee organization before January 1, 1996:
 - 9 (A) was certified after a representation proceeding as the
10 exclusive bargaining representative of the bargaining unit;
 - 11 (B) was recognized voluntarily by an employer based on a
12 petition, card check, or other showing of interest; or
 - 13 (C) is employer certified by a recognition clause in a
14 collective bargaining agreement; and
- 15 (3) a challenge petition is not submitted under section 4 of this
16 chapter within thirty (30) days after notice is given.

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

- 22 (1) bargaining agreement that has been in effect for less than
23 two (2) years;
- 24 (2) card check or other written showing of interest completed
25 not more than two (2) years before the filing of the historical
26 recognition petition; or
- 27 (3) election held not more than two (2) years before the filing
28 of the historical recognition petition.

29 Sec. 5. If the PERB grants a decertification petition, the PERB
30 shall direct that a decertification proceeding be held under
31 IC 5-27-8.

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

36 Chapter 8. Representation Proceedings

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

- 39 (1) Certification of an employee organization as the exclusive
40 bargaining representative of a bargaining unit.
- 41 (2) Decertification of an employee organization as the
42 exclusive bargaining representative of a bargaining unit.

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(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 sections 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. The PERB shall, within thirty (30) days after the filing of a petition under this chapter, issue an order determining the appropriateness of the assignment of an employee to a bargaining unit, if applicable, and, where 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 one (1) year has elapsed since the most recent previous valid election was held for the bargaining unit; and**
- (3) may not be held while a bargaining agreement is in effect.**

(b) Notwithstanding subsection (a)(3), the PERB may order an election based on a decertification petition concerning state employees or university employees if the petition is filed after September 1 and before October 1 of an even-numbered year.

(c) The rules adopted by the PERB under this article must provide for a thirty (30) day period in advance of the date fixed for the initiation of negotiations under IC 5-27-12 during which a

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1 decertification petition concerning employees of eligible political
 2 subdivisions may be filed. The PERB may order a representation
 3 proceeding based on a decertification petition filed under this
 4 subsection.

5 (d) The PERB and an employer shall provide employees a
 6 liberal opportunity to participate in elections held under this
 7 chapter. Mail-in ballots may be used.

8 (e) Absentee ballots may be used in an election under this
 9 chapter.

10 Sec. 8. The ballot used for an election under this chapter, other
 11 than a run-off election, must include a choice of "no union
 12 representation".

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

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

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

- 24 (1) an employee organization receives a majority of the votes
 25 cast, the PERB shall certify that employee organization as the
 26 exclusive bargaining representative of the bargaining unit;
 27 (2) the "no union representation" choice receives a majority
 28 of the votes cast, the PERB shall order that the bargaining
 29 unit will not be represented by an employee organization; or
 30 (3) no choice receives a majority of the votes cast, the PERB
 31 shall order a run-off election:

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

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

37 Sec. 12. If, as the result of a run-off election under this chapter:

- 38 (1) an employee organization receives a majority of the votes
 39 cast, the PERB shall certify that employee organization as the
 40 exclusive bargaining representative of the bargaining unit;
 41 (2) the "no union representation" choice, if any, receives a
 42 majority of the votes cast, the PERB shall order that the

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- 1 bargaining unit will not be represented by an employee
- 2 organization; or
- 3 (3) no choice receives a majority of the votes cast, the PERB
- 4 shall order another run-off election:
- 5 (A) between the two (2) choices receiving the greatest
- 6 number of votes; or
- 7 (B) if two (2) choices receive the second greatest number of
- 8 votes, among the three (3) choices receiving the greatest
- 9 number of votes.

10 **Chapter 9. Decertification of Employee Organization as**
 11 **Exclusive Bargaining Representative**

12 **Sec. 1. (a) An employee organization that has been certified as**
 13 **the exclusive bargaining representative of a bargaining unit shall**
 14 **be decertified as the exclusive bargaining representative of the**
 15 **bargaining unit under this chapter if:**

- 16 (1) a court orders the PERB to decertify an exclusive
- 17 bargaining representative for violating a temporary
- 18 restraining order, an injunction, or IC 5-27-16;
- 19 (2) the PERB finds that the exclusive bargaining
- 20 representative has violated IC 5-27-16; or
- 21 (3) a majority of the employees vote in an election under
- 22 IC 5-27-8:
- 23 (A) not to be represented by an exclusive bargaining
- 24 representative; or
- 25 (B) to be represented by a different employee organization.

26 (b) The penalties under subsection (a)(1) and (a)(2) do not result
 27 if the exclusive bargaining representative establishes an affirmative
 28 defense that the strike was an isolated occurrence and was not
 29 aided, abetted, or assisted by the officers, employees, or agents of
 30 the exclusive bargaining representative.

31 **Sec. 2. (a) The employer may file a decertification petition with**
 32 **the PERB alleging that an exclusive bargaining representative is no**
 33 **longer representative of a majority of the members of a bargaining**
 34 **unit.**

- 35 (b) Petitions for decertification of an exclusive bargaining
- 36 representative may also be filed by an:
- 37 (1) employee; or
- 38 (2) employee organization.

39 **Sec. 3. (a) The PERB shall, within thirty (30) days after the**
 40 **filing of a petition under section 2 of this chapter, issue an order**
 41 **granting or denying the petition. If the PERB grants the petition,**
 42 **the PERB shall direct that a representation proceeding be held**

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under IC 5-27-8.

(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) If an employer files a decertification petition, the employer must have a good faith doubt, backed by supportive data, that the current exclusive bargaining representative no longer has the support of a majority of the employees of a bargaining unit. The supportive data must be filed with the petition. If the PERB finds that there is not substantial evidence to support the petition, the PERB may not grant the petition.

(d) The PERB shall notify interested employee organizations of a petition under this section.

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, 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 or for any other legitimate reason.
- (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

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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.**
- (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 5-27-12-5(a) with an exclusive bargaining representative of a bargaining unit.**
- (6) Refuse to execute a bargaining agreement previously orally agreed upon.**
- (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 5-27-13 through IC 5-27-14.**
- (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

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1 a prohibited practice under this article if the expression contains
2 no threat of reprisal or force or promise of benefit.

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

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

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

13 (3) Refuse to bargain collectively with the employer on
14 matters set forth in IC 5-27-12-5(a).

15 (4) Refuse to participate in good faith in any agreed upon
16 impasse procedures or those required by IC 5-27-13 through
17 IC 5-27-14.

18 (5) Violate IC 5-27-16. This chapter applies in addition to
19 IC 5-27-16.

20 (6) Picket in a manner that interferes with ingress and egress
21 to the facilities of the employer.

22 (7) Engage in, initiate, sponsor, or support any picketing that
23 is performed in support of a strike.

24 (8) Fail to meet the duty of fair representation under this
25 chapter.

26 (9) Fail or refuse to comply with this article.

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

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

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

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

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

41 (b) Service under subsection (a)(3) shall be made on the office
42 of the chief negotiator. The chief negotiator shall represent the

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1 executive branch with respect to any alleged prohibited practice.

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

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

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

9 (2) notify the complainant and the respondent of the time and
10 place of a hearing.

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

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

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

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

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

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

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

27 (b) An exclusive bargaining representative who fails to comply
28 with the representative's duty under subsection (a) commits a
29 prohibited practice under this section if the exclusive bargaining
30 representative's conduct toward an employee is arbitrary,
31 discriminatory, or in bad faith.

32 Chapter 12. Collective Bargaining

33 Sec. 1. (a) The employer's duty to engage in bargaining arises
34 when an exclusive bargaining representative submits a written
35 request to enter into negotiations.

36 (b) A party's duty to bargain does not require the party to agree
37 to a proposal or to make a concession.

38 Sec. 2. (a) Collective bargaining negotiations must:

39 (1) commence after June 30; and

40 (2) be completed not later than September 30;
41 of an odd-numbered year.

42 (b) The duration of any bargaining agreement must be

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1 negotiated.

2 **Sec. 3. (a)** This section applies only to state employees and
3 university employees.

4 **(b)** Notwithstanding section 2 of this chapter and IC 5-27-13
5 through IC 5-27-14, the parties may agree to another negotiating
6 schedule and contract duration for an initial collective bargaining
7 agreement.

8 **(c)** Initial collective bargaining agreements may not include
9 economic terms that exceed the bargaining unit's proportionate
10 share of current budgets.

11 **(d)** As used in this section, a "bargaining unit's proportionate
12 share of current budgets" for a biennium means the aggregate of
13 appropriations denominated "personal services" in the
14 appropriations act or acts covering that biennium that are
15 attributable to the direct compensation and fringe benefits
16 (excluding fringe benefits that may not be the subject of
17 negotiations under this article) of employees included in the
18 bargaining unit on July 1 of the first fiscal year of that biennium
19 multiplied by the proportion that the number of days remaining in
20 that biennium bears to the total number of days in that biennium.

21 **(e)** An initial collective bargaining agreement or an initial
22 arbitration award may not obligate the executive branch to:

- 23 (1) transfer money within the state budget; or
24 (2) request the general assembly to make an appropriation.

25 **(f)** The budget director shall certify to parties negotiating under
26 this section the bargaining unit's proportionate share of the
27 current budget.

28 **Sec. 4. (a)** The PERB shall adopt rules concerning the duration
29 and negotiation schedules of collective bargaining agreements for
30 eligible political subdivisions.

31 **(b)** The rules adopted under subsection (a) must do the
32 following:

33 (1) Provide a schedule for negotiations and the completion of
34 impasse procedures reasonably in advance of the eligible
35 political subdivision's budget making cycle.

36 (2) Permit the parties to agree to a schedule and contract
37 duration other than that specified in the rules.

38 **Sec. 5. (a)** The parties shall negotiate in good faith concerning
39 the following mandatory subjects of negotiation:

- 40 (1) Wages.
41 (2) Hours.
42 (3) Conditions of employment.

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1 **Conditions of employment must include but are not limited to fair**
 2 **share agreements, maintenance of membership, and dues**
 3 **check-off, notwithstanding IC 22-2-6.**

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

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

9 **Sec. 6. (a) The employer and the exclusive bargaining**
 10 **representative shall include in their respective initial bargaining**
 11 **positions under section 7 of this chapter their positions with respect**
 12 **to impasse procedures. The impasse procedures must conclude in**
 13 **binding arbitration as described in IC 5-27-14.**

14 **(b) Any impasse procedures agreed upon by the parties must**
 15 **provide for as much public access to proceedings and records as is**
 16 **provided for under IC 5-14-1.5, IC 5-14-3, IC 5-27-13, and**
 17 **IC 5-27-14.**

18 **(c) If the parties fail to agree upon impasse procedures under**
 19 **this section, the impasse procedures provided in IC 5-27-13**
 20 **through IC 5-27-14 apply.**

21 **Sec. 7. The exclusive bargaining representative shall present the**
 22 **representative's initial bargaining position to the employer at the**
 23 **first bargaining session. The employer shall present the employer's**
 24 **initial bargaining position to the exclusive bargaining**
 25 **representative at the second bargaining session, which shall be held**
 26 **not later than fourteen (14) days following the first bargaining**
 27 **session.**

28 **Sec. 8. (a) A collective bargaining agreement may include a fair**
 29 **share agreement. A fair share agreement under this article consists**
 30 **of an agreement between the employer and an exclusive bargaining**
 31 **representative under which part or all of the employees in a**
 32 **bargaining unit are required to pay a share of the costs of the**
 33 **collective bargaining process, collective bargaining agreement**
 34 **administration, and other duties of the employee organization as**
 35 **the exclusive bargaining representative. The amount paid as a fair**
 36 **share may not exceed the amount of dues uniformly required of**
 37 **members of the collective bargaining unit.**

38 **(b) A fair share payment may not include fees for contributions**
 39 **related to the election or support of any candidate for elected**
 40 **office.**

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

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1 **Sec. 9.** A collective bargaining agreement may include a
2 maintenance membership agreement. Maintenance of membership
3 consists of an agreement between the employer and exclusive
4 bargaining representative under which membership cannot be
5 dropped until the termination date of the collective bargaining
6 agreement.

7 **Sec. 10. (a)** Both bargaining sessions under section 7 of this
8 chapter are subject to IC 5-14-1.5.

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

11 **Sec. 11.** A proposed bargaining agreement that is subject to
12 ratification by the parties shall be made public.

13 **Sec. 12. (a)** This section applies only to state employees and
14 university employees. Notwithstanding IC 5-27-14-10, a provision
15 of a collective bargaining agreement is not enforceable to the
16 extent the agreement:

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

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

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

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

32 **Sec. 13. (a)** This section does not apply to the following:

33 (1) State employees or state employee bargaining units.

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

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

38 **Chapter 13. Mediation and Factfinding**

39 **Sec. 1. (a) If:**

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

42 (2) an impasse procedures agreement has been reached and a

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1 party fails to use impasse procedures;
 2 the PERB shall, upon the request of either party, appoint a neutral
 3 as mediator.

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

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

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

15 (c) A factfinder selected under this section:

16 (1) shall:

17 (A) conduct a hearing;

18 (B) make written findings and recommendations for
 19 resolution of the dispute based upon the factors to be used
 20 by arbitrators under IC 5-27-14-8; and

21 (C) deliver the findings to the PERB, the employer, and the
 22 exclusive bargaining representative not later than fifteen
 23 (15) days from the date of the factfinder's appointment;
 24 and

25 (2) may:

26 (A) administer oaths; and

27 (B) request the PERB to issue subpoenas.

28 (d) The employer and the exclusive bargaining representative
 29 shall meet in negotiations to determine if the recommendations of
 30 the factfinder provide a basis for resolution of the dispute.

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

34 Sec. 3. The costs of factfinding shall be shared equally by the
 35 parties to the dispute.

36 Chapter 14. Binding Arbitration

37 Sec. 1. (a) If an impasse persists after the findings of fact and
 38 recommendations are made public by the PERB or if factfinding
 39 is not used and an impasse has persisted for ten (10) days after the
 40 appointment of a mediator:

41 (1) the parties may continue to negotiate; or

42 (2) the PERB shall, upon request of both parties, arrange for

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

(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.

(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) Subsequent to 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 of 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 5-27-2-9.

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

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

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

- 3 **(1) Determine whether the issues are ready for adjudication.**
- 4 **(2) Accept stipulations.**
- 5 **(3) Schedule hearings.**
- 6 **(4) Prescribe rules of conduct for the hearings.**
- 7 **(5) Order additional mediation.**
- 8 **(6) Take any other action that may aid in the disposition of the**
9 **impasse.**

10 **Sec. 7. The arbitrator may do the following:**

- 11 **(1) Hold hearings and administer oaths.**
- 12 **(2) Examine witnesses and documents.**
- 13 **(3) Take testimony and receive evidence.**
- 14 **(4) Issue subpoenas to compel the attendance of witnesses and**
15 **the production of records.**
- 16 **(5) Petition the circuit or superior court in Marion County or**
17 **the county in which a hearing is held to enforce an order**
18 **compelling the attendance of witnesses and the production of**
19 **records.**

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

- 22 **(1) Past collective bargaining agreements between the parties,**
23 **including the bargaining that led up to the agreements.**
- 24 **(2) Comparison of wages, hours, and conditions of**
25 **employment of the employees in the bargaining unit with**
26 **those doing the same work in the public or private sector,**
27 **giving consideration to factors peculiar to the area and the**
28 **classifications involved.**
- 29 **(3) The interests and welfare of the public, the ability of the**
30 **employer to finance economic adjustments, and the effect of**
31 **the adjustments on the normal standard of services.**
- 32 **(4) Any other factor customarily considered in the**
33 **negotiations of public sector labor agreements.**

34 **Sec. 9. (a) The arbitrator shall select, within fifteen (15) days (or**
35 **longer if agreed to by both parties) after the arbitrator's first**
36 **meeting, the most reasonable offer of:**

- 37 **(1) the final offers on each issue submitted by the parties; or**
- 38 **(2) the recommendations of the factfinder, if factfinding**
39 **occurred;**

40 **on each unresolved issue.**

41 **(b) The arbitrator's selection with respect to a particular issue**
42 **may not deviate from the final offer or factfinding**

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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.

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.

Sec. 11. (a) This section applies only to state employees and university employees.

(b) Notwithstanding any other provision of this article, an arbitrator:

(1) may not make an arbitration award with respect to the initial eighteen (18) months of the contract period if the money appropriated for those months is not sufficient to fund the aggregate compensation and benefit requirements of that portion of the arbitration award;

(2) may not make an arbitration award with respect to the final six (6) months of the contract period if the amount necessary to fund the aggregate compensation and benefit requirements for those six (6) months will exceed the amount necessary to fund the aggregate compensation and benefits for the initial six (6) months of the second year of the contract; and

(3) must make an arbitration award not later than December 1 of an odd-numbered year.

Sec. 12. The costs of binding arbitration shall be shared equally by the employer and the employee organization.

Sec. 13. 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 amend, add to, or subtract from provisions of the collective bargaining agreement.

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.

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1 **Chapter 16. Strikes**

2 **Sec. 1. As used in this article, "public employee" means an**
 3 **individual who is:**

- 4 (1) covered by the provisions of this article; and
 5 (2) employed by any of the following:
 6 (A) The executive branch.
 7 (B) A state educational institution.
 8 (C) An eligible political subdivision.

9 **Sec. 2. (a) It is unlawful for an employee organization to directly**
 10 **or indirectly induce, instigate, encourage, authorize, ratify, or**
 11 **participate in a strike.**

12 **(b) It is unlawful for a public employee to directly or indirectly**
 13 **induce, instigate, encourage, authorize, ratify, or participate in a**
 14 **strike.**

15 **(c) Each day that a public employee or employee organization**
 16 **violates this section constitutes a separate offense.**

17 **Sec. 3. (a) An employer may not:**

- 18 (1) authorize, consent to, or condone a strike;
 19 (2) pay or agree to compensate a public employee for time
 20 that a public employee participates in a strike;
 21 (3) pay or agree to pay an increase in compensation or
 22 benefits to, or improve the conditions of employment for, a
 23 public employee in response to or as a result of a violation of
 24 this chapter; or
 25 (4) negotiate or bargain with an exclusive bargaining
 26 representative whose members are on strike.

27 **(b) It is unlawful for an employer or an employee organization**
 28 **to negotiate or bargain concerning any recommendation to be**
 29 **made by the employer to a court concerning a suspension or**
 30 **modification of a penalty specified under this chapter.**

31 **(c) It is unlawful for a representative of an employer to**
 32 **authorize, ratify, or participate in a violation of this chapter.**

33 **Sec. 4. (a) Notwithstanding IC 5-27-11, if this chapter is violated**
 34 **or if a violation of this chapter is imminent, an employer may**
 35 **petition a circuit or superior court in:**

- 36 (1) the county where the violation has occurred or may occur;
 37 or
 38 (2) Marion County;

39 **for an injunction restraining the violation of this chapter.**

40 **(b) A court in which a petition is filed under this section shall,**
 41 **within twenty-four (24) hours of the filing of the petition:**

- 42 (1) issue a temporary restraining order if a violation has

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occurred or is imminent; or

(2) deny the petition.

The plaintiff does not need to show that the violation would greatly or irreparably injure the plaintiff.

(c) The granting or denial of a temporary restraining order under subsection (b) is immediately appealable to the court of appeals.

Sec. 5. (a) If a temporary restraining order or an injunction issued under this chapter is violated, an employer, an employee, or an employee organization may petition the court that issued the temporary restraining order or injunction to issue a contempt citation.

(b) A court in which a petition is filed under subsection (a) shall, within forty-eight (48) hours of the filing of the petition:

(1) issue a contempt citation ordering the penalties under section 6 of this chapter if a violation has occurred; or

(2) deny the petition.

(c) A person who makes an active, good faith attempt to comply with a temporary restraining order or an injunction issued under this chapter may not be held in contempt.

(d) The issuance or denial of a contempt citation under this section is immediately appealable to the court of appeals.

Sec. 6. (a) A public employee who violates this chapter shall pay a civil penalty of not less than fifty dollars (\$50) and not more than five hundred dollars (\$500) for each day or part of a day that the public employee violates this chapter.

(b) A public employee who is held in contempt of court for violating a temporary restraining order or an injunction issued under this chapter shall be immediately dismissed. A public employee dismissed under this section is ineligible for rehiring with the public employee's employer for one (1) year following the dismissal.

(c) An employee organization or employer that violates this chapter shall pay a civil penalty of not less than five hundred dollars (\$500) and not more than fifty thousand dollars (\$50,000) for each day or part of a day that the employee organization or employer violates this chapter.

(d) In addition to the other penalties specified by this chapter, if an employee organization violates this chapter or is held in contempt for violating a temporary restraining order or an injunction under this chapter, the employee organization:

(1) shall cease to be the exclusive bargaining representative of

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the bargaining unit;
(2) may not have any dues check-off or fair share fees collected on the employee organization's behalf; and
(3) may not submit a petition for certification as the exclusive bargaining representative of the bargaining unit until at least one (1) year has elapsed since the decertification under subdivision (1).

(e) The penalties for an employee organization under this section do not result if the employee organization establishes as an affirmative defense that the strike was an isolated occurrence and was not aided, abetted, or consented to by the officers, employees, or agents of the employee organization.

Sec. 7. The remedies and penalties specified by this chapter are separate and are in addition to any other legal or equitable remedy or penalty.

Sec. 8. An employer may renew bargaining with the exclusive bargaining representative of a collective bargaining unit under IC 5-27-15:

- (1) after a violation of this chapter by a member of the collective bargaining unit has ceased; and
- (2) only if the exclusive bargaining representative has not been found in contempt for violating a temporary restraining order or an injunction issued under this chapter.

Sec. 9. The impasse procedures of IC 5-27-13 through IC 5-27-14 may not be used for bargaining with an exclusive bargaining representative of a collective bargaining unit during a strike involving members of that collective bargaining unit.

Sec. 10. IC 22-6-1 does not apply to this article.

SECTION 2. IC 4-15-1.8-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.5. There is created within the department the office of chief negotiator. The chief negotiator is appointed by and serves at the pleasure of the governor. The chief negotiator may be the director. The chief negotiator is responsible for negotiating all collective bargaining agreements of the executive branch (as defined in IC 5-27-1).

SECTION 3. IC 4-15-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 35. (a) This section does not apply to an individual who is a member of a collective bargaining unit that has entered into a collective bargaining agreement under IC 5-27 for complaints arising while the agreement is in force.

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1 **(b)** Any regular employee may file a complaint if his status of
2 employment is involuntarily changed or if he deems conditions of
3 employment to be unsatisfactory. However, the complaint procedure
4 shall be initiated as soon as possible after the occurrence of the act or
5 condition complained of and in no event shall be initiated more than
6 thirty (30) calendar days after the employee is notified of a change in
7 his status of employment or after an unsatisfactory condition of
8 employment is created. Failure to initiate the complaint procedure
9 within such time period shall render the complaint procedure
10 unavailable to the employee. The following complaint procedure shall
11 be followed:

12 ~~Step F:~~ **(1)** The complaint procedure shall be initiated by a
13 discussion of the complaint by the employee and his immediate
14 supervisor and, if a mutually satisfactory settlement has not been
15 made within two (2) consecutive working days, such complaint
16 may be referred to ~~Step H:~~ **subdivision (2)**.

17 ~~Step H:~~ **(2)** The complaint shall be reduced to writing and
18 presented to the intermediate supervisor. If a mutually satisfactory
19 settlement has not been reached within four (4) consecutive
20 working days, such complaint may then be referred to the
21 Appointing Authority.

22 ~~Step H:~~ **(3)** The Appointing Authority or his designated
23 representative shall hold such hearings and conduct such
24 investigations as he deems necessary to render a decision and
25 shall make such decision in writing within ten (10) consecutive
26 working days.

27 **(4)** Should the appointing authority or his designated
28 representative not find in favor of the employee, the complaint
29 may be submitted within fifteen (15) calendar days to the state
30 personnel director. The director or his designee shall review the
31 complaint and render a decision within fifteen (15) calendar days.
32 If the decision is not agreeable to the employee, an appeal may be
33 submitted by the employee in writing to the commission no later
34 than fifteen (15) calendar days from the date the employee has
35 been given notice of the action taken by the personnel director or
36 his designee. After submission of the appeal, the commission
37 shall, prior to rendering its decision, grant the appealing employee
38 and the appointing authority a public hearing, with the right to be
39 represented and to present evidence. With respect to all appeals,
40 the commission shall render its decision within thirty (30) days
41 after the date of the hearing on the appeal. If the commission finds
42 that the action against the employee was taken on the basis of

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politics, religion, sex, age, race or because of membership in an employee organization, the employee shall be reinstated to his position 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 4. IC 4-21.5-2-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 7. (a) This article applies to the following:**

(1) The public employees relations board established by IC 5-27-2.

(2) Interest arbitration under IC 5-27-14.

(b) This article does not apply to grievance arbitration under IC 5-27-15.

SECTION 5. IC 5-14-1.5-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **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 discussion between the parties under IC 20-7.5 or IC 5-27, 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

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~~inspection.~~ **subject to inspection and copying under IC 5-14-3-3.**

(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 public inspection~~ **subject to inspection and copying** as provided by IC 20-7.5-1-13(e) ~~or any other applicable statute relating to factfinding in connection with public collective bargaining.~~ **and IC 5-27-13-2(e).**

(4) **If an arbitrator is appointed, any hearing the arbitrator holds must be open at all times for the purpose of permitting members of the public to observe and record the hearing. All records submitted by a party to an arbitrator that are not subject to IC 5-14-3-4(b) and 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.

(c) **This section supplements and does not limit the general applicability of IC 5-14-3 to public records under IC 20-7.5 and IC 5-22.**

SECTION 6. [EFFECTIVE JULY 1, 2001] **105 IAC 6-3 does not apply to an individual who is a member of a collective bargaining unit that has entered into a collective bargaining agreement under IC 5-27 for complaints arising while the agreement is in force.**

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 5-27-4-3 and IC 5-27-4-4, as added by this act:**

(1) the director of the state personnel department shall assign all employees (as defined in IC 5-27-1) and job descriptions to one (1) of the appropriate statewide bargaining units described in IC 5-27-4-2; and

(2) the assignment of employees and job descriptions to bargaining unit categories under this SECTION may not be challenged until:

(A) July 1, 2002; or

(B) an election is held under IC 5-27-8, as added by this act, with respect to the bargaining unit; whichever occurs first.

(b) **Notwithstanding subsection (a), for those bargaining units created under Executive Order 90-6 and extended under Executive Order 97-8, assignments of employees to those units are considered**

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1 to be made by the state personnel director upon passage of this act.
 2 SECTION 8. [EFFECTIVE UPON PASSAGE] Notwithstanding
 3 IC 5-27, as added by this act, an employee organization that is
 4 certified in an election by the PERB created by Executive Order
 5 90-6 and extended under Executive Order 97-8 as the exclusive
 6 negotiating organization for a bargaining unit shall be granted
 7 recognition as the exclusive bargaining representative for that unit.
 8 SECTION 9. [EFFECTIVE UPON PASSAGE] (a)
 9 Notwithstanding IC 5-27-2-2, as added by this act, the terms of the
 10 persons initially appointed to the public employees relations board
 11 shall be as follows:
 12 (1) Two (2) members appointed for a term of one (1) year.
 13 (2) One (1) member appointed for a term of two (2) years.
 14 (3) One (1) member appointed for a term of three (3) years.
 15 (4) One (1) member appointed for a term of four (4) years.
 16 (b) The governor shall make the initial appointments to the
 17 public employees relations board by July 15, 2001.
 18 (c) This SECTION expires July 1, 2003 .
 19 SECTION 10. [EFFECTIVE UPON PASSAGE] (a) The public
 20 employees relations board established by IC 5-27-2, as added by
 21 this act, shall carry out the board's duties under this act under
 22 interim written guidelines approved by the governor.
 23 (b) This SECTION expires on the earlier of:
 24 (1) the date rules are adopted under IC 5-27-2-8; or
 25 (2) January 1, 2003.
 26 SECTION 11. An emergency is declared for this act.

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