



Reprinted
February 5, 2002

HOUSE BILL No. 1220

DIGEST OF HB 1220 (Updated February 4, 2002 6:11 PM - DI 96)

Citations Affected: IC 5-14; IC 20-7.5; IC 22-6.5; IC 36-8; noncode.

Synopsis: Collective bargaining for employees of the state, school corporations, state educational institutions, and local governments. Allows certain employees of the state, state educational institutions, counties, cities, towns, or townships, and certain noncertificated employees of school corporations to bargain collectively with the employer through an exclusive representative. Establishes the public employees relations board to implement the collective bargaining law. Specifies the rights and duties of employees and employers in collective bargaining. Provides for the recognition of exclusive representatives, payroll deductions, complaint proceedings before the board, judicial review of complaints, mediation, and arbitration. Prohibits lockouts and strikes. Provides that an agent appointed by the state, a school corporation, a state educational institution, or a local government to conduct collective bargaining is not a "governing body" for open door law purposes. Provides that an employee organization that has been certified as the exclusive negotiating organization for a bargaining unit in an election by an earlier public employees relations board created by executive order is granted recognition as the exclusive bargaining representative for that unit.

Effective: Upon passage; July 1, 2002.

Adams T, Herrell, Kersey

January 10, 2002, read first time and referred to Committee on Labor and Employment.
January 29, 2002, amended, reported — Do Pass.
February 4, 2002, read second time, amended, ordered engrossed.

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February 5, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1220

A BILL FOR AN ACT to amend the Indiana Code concerning labor.

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

1 SECTION 1. IC 5-14-1.5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. For the purposes of
3 this chapter:

4 (a) "Public agency" means the following:

5 (1) Any board, commission, department, agency, authority, or
6 other entity, by whatever name designated, exercising a portion of
7 the executive, administrative, or legislative power of the state.

8 (2) Any county, township, school corporation, city, town, political
9 subdivision, or other entity, by whatever name designated,
10 exercising in a limited geographical area the executive,
11 administrative, or legislative power of the state or a delegated
12 local governmental power.

13 (3) Any entity which is subject to either:

14 (A) budget review by either the state board of tax
15 commissioners or the governing body of a county, city, town,
16 township, or school corporation; or

17 (B) audit by the state board of accounts.

18 (4) Any building corporation of a political subdivision of the state

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- 1 of Indiana that issues bonds for the purpose of constructing public
 2 facilities.
- 3 (5) Any advisory commission, committee, or body created by
 4 statute, ordinance, or executive order to advise the governing
 5 body of a public agency, except medical staffs or the committees
 6 of any such staff.
- 7 (6) The Indiana gaming commission established by IC 4-33,
 8 including any department, division, or office of the commission.
- 9 (7) The Indiana horse racing commission established by IC 4-31,
 10 including any department, division, or office of the commission.
- 11 (b) "Governing body" means two (2) or more individuals who are:
 12 (1) a public agency that:
 13 (A) is a board, a commission, an authority, a council, a
 14 committee, a body, or other entity; and
 15 (B) takes official action on public business;
 16 (2) the board, commission, council, or other body of a public
 17 agency which takes official action upon public business; or
 18 (3) any committee appointed directly by the governing body or its
 19 presiding officer to which authority to take official action upon
 20 public business has been delegated.
- 21 An agent or agents appointed by a school corporation, **the state, a state**
 22 **educational institution (as defined by IC 20-12-0.5-1), or a county,**
 23 **city (as defined by IC 36-1-2-3), town (as defined by IC 36-1-2-21),**
 24 **or township (as defined by IC 36-1-2-22)** to conduct collective
 25 bargaining on behalf of ~~the that~~ **state, school corporation, state**
 26 **educational institution, county, city, town, or township** does not
 27 constitute a governing body for purposes of this chapter.
- 28 (c) "Meeting" means a gathering of a majority of the governing body
 29 of a public agency for the purpose of taking official action upon public
 30 business. It does not include:
 31 (1) any social or chance gathering not intended to avoid this
 32 chapter;
 33 (2) any on-site inspection of any project or program;
 34 (3) traveling to and attending meetings of organizations devoted
 35 to betterment of government; or
 36 (4) a caucus.
- 37 (d) "Official action" means to:
 38 (1) receive information;
 39 (2) deliberate;
 40 (3) make recommendations;
 41 (4) establish policy;
 42 (5) make decisions; or

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- 1 (6) take final action.
- 2 (e) "Public business" means any function upon which the public
3 agency is empowered or authorized to take official action.
- 4 (f) "Executive session" means a meeting from which the public is
5 excluded, except the governing body may admit those persons
6 necessary to carry out its purpose.
- 7 (g) "Final action" means a vote by the governing body on any
8 motion, proposal, resolution, rule, regulation, ordinance, or order.
- 9 (h) "Caucus" means a gathering of members of a political party or
10 coalition which is held for purposes of planning political strategy and
11 holding discussions designed to prepare the members for taking official
12 action.
- 13 (i) "Deliberate" means a discussion which may reasonably be
14 expected to result in official action (defined under subsection (d)(3),
15 (d)(4), (d)(5), or (d)(6)).
- 16 (j) "News media" means all newspapers qualified to receive legal
17 advertisements under IC 5-3-1, all news services (as defined in
18 IC 34-6-2-87), and all licensed commercial or public radio or television
19 stations.
- 20 (k) "Person" means an individual, a corporation, a limited liability
21 company, a partnership, an unincorporated association, or a
22 governmental entity.
- 23 SECTION 2. IC 20-7.5-1-8 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. The school employer
25 shall, on receipt of the written authorization of a school employee,
26 deduct from the pay of such employee any dues **or assessments**
27 designated or certified by the appropriate officer of a school employee
28 organization which is an exclusive representative of any employees of
29 the school employer and shall remit such dues to such school employee
30 organization; however, such deductions shall be consistent with the
31 provisions of IC 22-2-6 and IC 22-2-7, and IC 20-6.1-5-11.
- 32 SECTION 3. IC 20-7.5-1-14 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. ~~Strikes.~~
- 34 (a) It shall be unlawful for any school employee, school employee
35 organization, or any affiliate, including but not limited to state or
36 national affiliates thereof, to take part in or assist in a strike against a
37 school employer or school corporation.
- 38 (b) Any school corporation or school employer may, in an action at
39 law, suit in equity, or other proper proceeding, take action against any
40 ~~school employee organization, any affiliate thereof, or any person~~
41 ~~aiding or abetting in a strike, for redress of such unlawful act.~~
- 42 (c) ~~Where~~ **When** any exclusive representative engages in a strike,

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1 or aids or abets therein, **the school employer or school corporation**
 2 **may petition a circuit or superior court in:**

3 **(1) the county in which the violation has occurred; or**

4 **(2) Marion County;**

5 **for remedy against the exclusive representative. The exclusive**
 6 **remedy against the exclusive representative, including remedy for**
 7 **violations of IC 34-47, it shall lose its loss of its dues deduction**
 8 **privilege for a period of one (1) year.**

9 (d) No regulation, rule or law with respect to the minimum length
 10 of a school year shall be applicable or shall require make-up days in
 11 any situation where schools in a school corporation are closed as a
 12 result of a school employee strike. A school corporation shall not pay
 13 any school employee for any day when the school employee fails as a
 14 result of a strike to report for work as required by the school year
 15 calendar.

16 SECTION 4. IC 22-6.5 IS ADDED TO THE INDIANA CODE AS
 17 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 18 2002]:

19 **ARTICLE 6.5. COLLECTIVE BARGAINING FOR PUBLIC**
 20 **EMPLOYEES**

21 **Chapter 1. Definitions**

22 **Sec. 1. The definitions in this chapter apply throughout this**
 23 **article.**

24 **Sec. 2. "Bargain collectively" means to perform the obligation**
 25 **of an employer (through the employer's executive or the**
 26 **executive's designee) and of the designee of the exclusive**
 27 **representative to do the following:**

28 **(1) Meet at reasonable times, including meetings in advance**
 29 **of the budget making process.**

30 **(2) Negotiate in good faith concerning the following:**

31 **(A) Wages.**

32 **(B) Salaries.**

33 **(C) Hours.**

34 **(D) Salary and wage related benefits.**

35 **(E) All other terms and conditions of employment,**
 36 **including health and safety conditions.**

37 **(3) Execute a written contract incorporating an agreement if**
 38 **a written contract is requested by either party.**

39 **Sec. 3. "Bargaining unit" means a class or group of jobs or**
 40 **positions that are held by employees of employers as defined in**
 41 **section 9 of this chapter whose collective interests may be suitably**
 42 **represented by an employee organization for collective bargaining.**



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1 **Sec. 4. "Board"** refers to the public employees relations board
2 established by IC 22-6.5-2-1.

3 **Sec. 5. "Complainant"** means an employer, employee, employee
4 organization, or exclusive representative that files a complaint with
5 the board under IC 22-6.5-4.

6 **Sec. 6. "Confidential employee"** means an employee:

- 7 (1) who works in the personnel office of the employer;
8 (2) who has access to confidential or discretionary
9 information that may be used by the employer in negotiating
10 a collective bargaining agreement under this article;
11 (3) who works in a close and continuing working relationship
12 with:

13 (A) an individual holding elective office; or

14 (B) individuals who represent the employer in negotiations
15 under this article;

16 (4) whose:

17 (A) functional responsibilities; or

18 (B) knowledge;

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

22 (5) who is a personal secretary of:

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

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

27 (C) an individual holding elected office.

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

29 (1) A county, city, town, or township (all as defined in
30 IC 36-1-2).

31 (2) A school corporation (as defined in IC 20-10.1-1-1)
32 regarding the school corporation's noncertificated employees
33 (as defined in IC 20-7.5-1-2(g)).

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

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

37 (2) A member of a board or commission.

38 (3) A confidential employee.

39 (4) A supervisor.

40 (5) A managerial employee.

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

42 (7) An individual in the custody of the department of

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- correction.
- (8) The chief administrative or executive officer of an agency.
- (9) An attorney whose responsibilities include the providing of legal advice or the performance of legal research.
- (10) A physician or a dentist.
- (11) An administrative law judge.
- (12) An individual who performs internal investigations.
- (13) A neutral.
- (14) An employee of an eligible political subdivision as defined in section 7 of this chapter who is not included for coverage under this article under the terms of an ordinance or a resolution adopted under IC 5-27-3-2.
- (15) A local public safety officer.
- (16) A professional employee of the department of commerce who participates in economic development matters.
- (17) A certificated employee of a school corporation as defined in IC 20-7.5-1-2(f).

Sec. 9. "Employee organization" means an organization in which employees participate and that exists to deal with an employer concerning any of the following:

- (1) Grievances.
- (2) Labor disputes.
- (3) Wages.
- (4) Rates of pay.
- (5) Hours of employment.
- (6) Employment conditions.

Sec. 10. (a) "Employer" means any of the following:

- (1) The executive branch.
- (2) A state educational institution (as defined by IC 20-12-0.5-1).
- (3) An eligible political subdivision.

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

- (1) The senate, the house of representatives, the legislative services agency, or any commission or agency of the legislative department of the state.
- (2) The judicial department of government, including any commission or agency of the judicial department.
- (3) A school corporation, as to the school corporation's certificated employees.
- (4) Unless specifically included under section 11 of this chapter, the office of an individual holding an elected office.
- (5) Bodies corporate and politic.

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- (6) The budget agency.
- (7) Uniformed members of the national guard.
- (8) The state personnel department.
- (9) The public employees relations board.
- (10) The education employment relations board.
- (11) The state board of accounts.

Sec. 11. "Exclusive representative" means an employee organization that is:

- (1) certified under IC 22-6.5-3 by the board; or
- (2) recognized by the employer as the exclusive representative of the employees in a bargaining unit.

Sec. 12. "Executive branch" means the agencies (as defined in IC 4-22-2-3) under the direct authority of the governor.

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

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

- (1) engaged predominantly in executive and management functions; or
- (2) charged with the responsibility of directing the effectuation of management policies and practices.

Sec. 15. "Mediation" means assistance by an impartial third party to reconcile an impasse through persuasion, suggestion, and advice.

Sec. 16. "Neutral" includes the following:

- (1) Factfinder.
- (2) Arbitrator.
- (3) Mediator.

Sec. 17. "Respondent" means a person against whom a complainant files a complaint under IC 22-6.5-3.

Sec. 18. "Strike" includes concerted:

- (1) willful absence from the employee's position;
- (2) stoppage of work;
- (3) abstinence in whole or in part from the full and proper performance of the duties of employment; or
- (4) refusal to report to duty.

Sec. 19. "Supervisor" means an individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not

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1 of a merely routine or clerical nature, but requires the use of
2 independent judgment.

3 Sec. 20. "Temporary employee" means an individual who is
4 employed in a temporary position for not more than ninety (90)
5 days.

6 Chapter 2. Public Employees Relations Board

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

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

11 (b) A board member may not:

- 12 (1) be a representative of or be employed by an employee
13 organization or an affiliate of an employee organization; or
14 (2) hold any other public office.

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

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

17 Sec. 4. (a) The governor shall designate a member of the board
18 to serve as the chairperson. The chairperson:

- 19 (1) shall serve as the full time director; and
20 (2) must possess educational credentials and experience in
21 labor relations matters as a prerequisite to designation as
22 chairperson.

23 (b) The chairperson shall give full time to the chairperson's
24 duties. The chairperson of the board shall not engage in any other
25 business, vocation, or employment.

26 Sec. 5. (a) Each member of the board is entitled to compensation
27 as fixed by the state personnel director, subject to the approval of
28 the budget agency.

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

35 Sec. 6. A majority of the members appointed to the board
36 constitutes a quorum.

37 Sec. 7. The board shall do the following:

- 38 (1) Process and make determinations concerning prohibited
39 practices complaints under IC 22-6.5-5-35 and IC 22-6.5-5-36.
40 (2) Provide impasse services.
41 (3) Provide research services.
42 (4) Process and make determinations concerning bargaining

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

Sec. 8. The board may do the following:

- (1) Appoint staff (including attorneys who may represent the board in legal proceedings) subject to IC 4-15-2, necessary for the performance of the board's duties. However, the staff director and chief counsel for the board 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 board in legal proceedings.
- (5) Contract for the services of other professionals.
- (6) Designate a board 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 board, unless the parties agree to use another list of neutrals. If the board 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. Collective Bargaining for Public Employees: Employee Organizations

Sec. 1. This chapter applies to the state executive branch, state educational institutions, and eligible political subdivisions.

Sec. 2. The board shall implement and administer this chapter and IC 22-6.5-3 through IC 22-6.5-5. To do so, the board may exercise the powers granted to the board under IC 22-6.5-2-8.

Sec. 3. Employees may do the following:

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- 1 **(1) Form, join, or participate in employee organizations.**
- 2 **(2) Participate in collective bargaining with the employer**
- 3 **through representatives of the employees' choosing.**
- 4 **(3) Engage in other activities, individually or in concert, to**
- 5 **establish, maintain, or improve the following:**
- 6 **(A) Salaries.**
- 7 **(B) Wages.**
- 8 **(C) Hours.**
- 9 **(D) Salary and wage related fringe benefits.**
- 10 **(E) All other terms and conditions of employment,**
- 11 **including health and safety conditions.**
- 12 **Sec. 4. An employer shall manage and direct the employer's**
- 13 **operations and activities to the full extent authorized by law.**
- 14 **Sec. 5. An employer may do the following:**
- 15 **(1) Direct the work of an employee, except where otherwise**
- 16 **provided by law.**
- 17 **(2) Establish policy.**
- 18 **(3) Hire, promote, demote, transfer, assign, and retain an**
- 19 **employee in accordance with law and collective bargaining**
- 20 **agreements.**
- 21 **(4) Suspend or discharge an employee in accordance with law.**
- 22 **(5) Maintain the efficiency of governmental operations.**
- 23 **(6) If an eligible political subdivision, take action necessary to**
- 24 **carry out the missions of the eligible political subdivision.**
- 25 **(7) If the state, a school corporation, or a state educational**
- 26 **institution, take action necessary to carry out the missions of**
- 27 **the state, school corporation, or state educational institution.**
- 28 **(8) Protect the fiscal soundness and assure the continuation of**
- 29 **vital public safety services.**
- 30 **(9) Take actions necessary to carry out the employer's**
- 31 **responsibilities in emergencies, including any of the following:**
- 32 **(A) Riot.**
- 33 **(B) Military action.**
- 34 **(C) Natural disaster.**
- 35 **(D) Civil disorder.**
- 36 **Sec. 6. In accordance with rules adopted by the board under**
- 37 **IC 4-22-2, the board shall investigate a petition filed with the board**
- 38 **by:**
- 39 **(1) an employee organization alleging that thirty percent**
- 40 **(30%) of the employees in the appropriate bargaining unit**
- 41 **wish to be represented for collective bargaining purposes by**
- 42 **an exclusive representative;**

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(2) an employer alleging that at least one (1) employee organization has presented a claim to be recognized as the exclusive representative in an appropriate bargaining unit; or (3) an employee or a group of employees alleging that thirty percent (30%) of the employees assert that the designated exclusive representative is no longer the representative of the majority of employees in the bargaining unit.

Sec. 7. If the board has reasonable cause to believe that a question of representation exists, the board shall conduct a hearing within thirty (30) days after a petition is filed with the board. If the board finds upon the record of the hearing that a question of representation exists, the board shall do the following:

(1) Direct an election by secret ballot within thirty (30) days after the hearing.

(2) Certify the results within ten (10) days after the election.

Sec. 8. If the parties referred to in section 6 of this chapter waive the hearing, the board is not required to conduct a hearing under section 7 of this chapter before a consent election.

Sec. 9. The board shall determine who is eligible to vote in an election directed under section 7 of this chapter and shall establish rules governing the election, subject to the following conditions:

(1) To be placed on the ballot, an employee organization must be designated by more than ten percent (10%) of the employees in the bargaining unit.

(2) If none of the choices on the ballot receives a majority in an election but a majority of all votes cast are for representation by some employee organization, the board shall conduct a runoff election.

(3) An employee organization that receives the majority of the votes cast in an election shall be certified by the board as the exclusive representative.

Sec. 10. An election may not be directed in a bargaining unit or in a subdivision of a bargaining unit within which a valid election has been held in the preceding twelve (12) months.

Sec. 11. Notwithstanding sections 6 through 10 of this chapter, an employer shall recognize a particular employee organization as the exclusive representative of the employees within an appropriate bargaining unit if the employee organization presents to the employer evidence that the employee organization represents a majority of the employees within the bargaining unit, unless an employee organization or a group of employees representing employees within the bargaining unit files a written objection to

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recognition with the employer or the board.

Sec. 12. If:

(1) an employee organization, under section 11 of this chapter, provides an employer with evidence that the employee organization represents a majority of the employees within an appropriate bargaining unit; and

(2) no written objection to the recognition of the employee organization as the exclusive representative of the employees within the bargaining unit is filed under section 11 of this chapter by another employee organization or a group of employees representing the employees within the bargaining unit;

the board is not required to hold a hearing or to direct an election on the question of whether the employee organization referred to in subdivision (1) shall be recognized as the exclusive representative of the employees within the bargaining unit.

Sec. 13. Before recognizing an employee organization as an exclusive representative under section 11 of this chapter, the employer must post a written public notice of the employer's intention to recognize the employee organization as the exclusive representative of the employees within the bargaining unit. The notice must be posted in a place where it will be seen by the employees within the bargaining unit for at least thirty (30) days immediately preceding the recognition.

Sec. 14. In a case in which:

(1) there is a historical pattern of recognition; and

(2) the employer has recognized an employee organization as the sole and exclusive bargaining agent for an existing bargaining unit;

the board shall find that the employees in the bargaining unit are represented by that employee organization and recognize the employee organization as the exclusive representative.

Sec. 15. A determination made under this chapter that an employee organization has been chosen as the exclusive representative by a majority of the employees in an appropriate bargaining unit is subject to judicial review under the same procedure, time limits, and other requirements as are set forth in IC 22-6.5-4-13 though IC 22-6.5-4-23 for review of an order of the board. The record of the board's determination of the appropriate bargaining unit and the exclusive representative may be a part of the transcript of a proceeding under this section.

Sec. 16. An employer, upon receipt of a written authorization

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from an employee subject to this chapter, shall:

- (1) deduct from the pay of the employee the dues, fees, or assessments designated or certified by the appropriate officer of an employee organization; and
- (2) remit those amounts to the employee organization.

Sec. 17. A collective bargaining agreement with an employee organization that is recognized as an exclusive representative under this chapter may include a provision requiring an employee who is covered by the collective bargaining agreement but is not a member of the employee organization to pay a proportionate share of the costs of the collective bargaining process, contract administration, and matters affecting wages, hours, and conditions of employment. This proportionate share may not exceed the amount of dues uniformly required of members of the employee organization.

Sec. 18. An employee organization referred to in section 17 of this chapter shall certify to an employer the amount constituting each nonmember employee's proportionate share. The employer shall deduct the proportionate share payment from the earnings of a nonmember employee and pay the amount to the employee organization.

Sec. 19. Only the exclusive representative of the employees within a bargaining unit may negotiate provisions in a collective bargaining agreement providing for the payroll deduction of any of the following:

- (1) Labor organization dues.
- (2) Fair share payment.
- (3) Initiation fees.
- (4) Assessments.
- (5) Maintenance of membership.

Sec. 20. Except as provided in sections 17 and 18 of this chapter, deductions may be made only upon an employee's written authorization and shall be continued until:

- (1) revoked in writing; or
- (2) the termination date of the applicable collective bargaining agreement.

Sec. 21. A collective bargaining agreement providing for an employee who is not a member of the employee organization recognized as the exclusive representative to pay a proportionate share agreement must safeguard the right of nonassociation based upon bona fide religious tenets of an employee. An affected employee may be required to pay an amount equal to the

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1 employee's proportionate share, determined under a lawful
2 proportionate share agreement, to a nonreligious charitable
3 organization agreed upon by the employee and the exclusive
4 representative to which the employee would otherwise pay the
5 service fee.

6 Sec. 22. If an affected employee referred to in section 21 of this
7 chapter and the exclusive representative are unable to agree on a
8 payment under section 21 of this chapter, the board may establish
9 an approved list of charitable organizations to which the payments
10 may be made.

11 Sec. 23. It is an unfair labor practice for an employer to do any
12 of the following:

13 (1) Interfere with, restrain, or coerce an employee in the
14 exercise of the rights guaranteed in this chapter or IC 22-6.5-4
15 through IC 22-6.5-6.

16 (2) Dominate, interfere, or assist in the formation or
17 administration of an employee organization, or contribute
18 financial or other support to an employee organization.

19 (3) Discriminate in regard to:

20 (A) hiring practices;

21 (B) tenure of employment; or

22 (C) a term or condition of employment;

23 to encourage or discourage membership in an employee
24 organization.

25 (4) Discharge or otherwise discriminate against an employee
26 because that employee has:

27 (A) filed a complaint, an affidavit, or a petition; or

28 (B) given information or testimony under this chapter or
29 IC 22-6.5-4.

30 (5) Refuse to bargain collectively in good faith with an
31 exclusive representative concerning the following:

32 (A) Wages.

33 (B) Rates of pay.

34 (C) Hours.

35 (D) Working conditions.

36 (E) Any other terms or conditions of employment.

37 (6) Fail or refuse to comply with this chapter or IC 22-6.5-4
38 through IC 22-6.5-6.

39 Sec. 24. It is an unfair labor practice for an employee
40 organization to do any of the following:

41 (1) Interfere with, restrain, or coerce:

42 (A) an employee in the exercise of the rights guaranteed in

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this chapter or IC 22-6.5-4 through IC 22-6.5-6; or
(B) an employer in the selection of an exclusive representative for collective bargaining or the adjustment of grievances.

(2) Cause or attempt to cause an employer to discriminate against an employee contrary to section 23 of this chapter.

(3) Refuse to bargain collectively in good faith with an employer if the employee organization is the exclusive representative.

(4) Engage in a strike.

(5) Fail to comply with this chapter or IC 22-6.5-4 through IC 22-6.5-6.

Sec. 25. It is not an unfair labor practice for an employer to confer with an employee without loss of time or pay by the employee during working hours.

Sec. 26. It is not an unfair labor practice for an employee organization to adopt rules concerning the acquisition or retention of membership in the employee organization.

Chapter 4. Collective Bargaining for Public Employees: Complaints

Sec. 1. This chapter applies to all employers as defined in IC 22-6.5-1.

Sec. 2. (a) An employer, employee, employee organization, or exclusive representative who is aggrieved by an alleged unfair labor practice may file a complaint with the board.

(b) The board shall serve a copy of the complaint on the respondent complained of and notify the respondent of the date and place of a hearing on the complaint.

Sec. 3. (a) The board shall hold a hearing on a complaint not less than five (5) days or more than thirty (30) days after the complaint is served on the respondent.

(b) A notice of a hearing may not be issued based upon an alleged unfair labor practice occurring more than ninety (90) days before the filing of the complaint, unless the complainant was prevented from filing the complaint because of service in the armed forces. In that event, the complaint must be filed not more than ninety (90) days after the complainant's discharge from the armed forces.

Sec. 4. (a) A complaint may be amended by the complainant at any time before the issuance of an order by the board if the respondent would not be unfairly prejudiced by the amendment.

(b) The respondent shall file an answer to the original or

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1 amended complaint. The complainant and the respondent are
 2 parties and are entitled to appear in person or otherwise give
 3 testimony at the hearing. At the discretion of the board, an
 4 interested person may be allowed to intervene in the hearing and
 5 present testimony.

6 Sec. 5. The board is not bound by the rules of evidence in
 7 conducting a hearing under this chapter. Testimony received at a
 8 hearing shall be reduced to writing and filed with the board. After
 9 receiving the testimony, the board may take further testimony or
 10 hear arguments upon notice to the parties.

11 Sec. 6. (a) In a proceeding on a complaint under this chapter,
 12 the board shall make a determination based on the preponderance
 13 of evidence received.

14 (b) If the board determines that the respondent was or is
 15 engaged in an unfair labor practice, the board shall state the
 16 findings of fact and serve on the respondent an order requiring
 17 that the respondent cease the unfair labor practice and take
 18 affirmative actions, including reinstatement of an employee with
 19 or without back pay, to carry out this chapter, IC 22-6.5-3,
 20 IC 22-6.5-5 or IC 22-6.5-6. The order may further require that the
 21 respondent make reports showing the extent of the respondent's
 22 compliance with the order.

23 Sec. 7. If the board determines that a respondent:

- 24 (1) did not engage in; or
 25 (2) is not engaging in;

26 an unfair labor practice, the board shall state the findings of fact
 27 and dismiss the complaint.

28 Sec. 8. A hearing may be conducted by:

- 29 (1) a member of the board; or
 30 (2) a hearing examiner or an agency designated by the board;

31 instead of by the full board. However, after the hearing, the
 32 member, hearing examiner, or agency shall serve on the parties
 33 and file with the board proposed findings and a recommended
 34 order.

35 Sec. 9. If an exception is not filed by a party:

- 36 (1) within twenty (20) days after service on the parties; or
 37 (2) within a period authorized by the board;

38 the recommended order filed under section 8 of this chapter
 39 becomes the order of the board.

40 Sec. 10. If an exception to a recommended order filed under
 41 section 8 of this chapter is filed, the board shall grant review if the
 42 board determines that the exception raises a substantial issue of

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fact or law.

Sec. 11. If the board determines that an exception to a recommended order filed under section 8 of this chapter does not raise a substantial issue of fact or law, the recommended order becomes the order of the board.

Sec. 12. An order of the board under sections 8 through 11 of this chapter is a final order and binding on the parties to the complaint, subject to judicial review under sections 13 through 23 of this chapter.

Sec. 13. Not later than thirty (30) days after service of the board's order on the complainant and respondent under:

- (1) IC 22-6.5-3-6 through IC 22-6.5-3-15; or**
- (2) sections 1 through 11 of this chapter;**

the board or the complainant may petition the circuit or superior court of a county in which the unit is located for an employee of a unit, and for an employee of the state in the county in which the employee is employed for the enforcement of the board's order and for appropriate relief.

Sec. 14. A party aggrieved by the board's order may petition the court for a review of the order and for appropriate relief. If a petition is not filed within the thirty (30) day period allowed by section 13 of this chapter, the order may not be reviewed. The board shall then file a petition with the court to enforce the order.

Sec. 15. The commencement of proceedings after the filing of a petition under section 14 of this chapter does not, unless specifically ordered by the court, operate as a stay of the board's order.

Sec. 16. After a petition is filed under section 14 of this chapter, the court shall have notice of the petition served upon the parties and send a copy to the board. If the plaintiff is an employee of IC 22-6.5-1-10(a)(1), the notice shall be served upon the attorney general as provided in IC 4-6-2-1, who shall defend the action.

Sec. 17. In a proceeding on a petition filed under section 14 of this chapter, an objection that was not made at the hearing conducted under section 8 of this chapter may not be considered by the court, unless the failure to make the objection is excused because of extraordinary circumstances.

Sec. 18. If either party to a petition filed under section 14 of this chapter applies to the court for leave to introduce additional evidence and shows to the satisfaction of the court that:

- (1) the additional evidence is material; and**
- (2) there were reasonable grounds for the failure to introduce**

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1 the evidence in the hearing conducted under section 8 of this
2 chapter;
3 the court may order the additional evidence to be taken by the
4 board and made a part of the record.

5 Sec. 19. After a court, under section 18 of this chapter, orders
6 the board to make additional evidence a part of the record, the
7 board:

- 8 (1) may modify the findings of fact by reason of the additional
9 evidence; and
10 (2) shall file any modified findings and any recommendations
11 for a modification or setting aside of the original order with
12 the court.

13 Sec. 20. A party who petitions a court for review of an order of
14 the board under section 14 of this chapter must file a record of the
15 hearing, certified by the board, with the court. Until a record of the
16 hearing is filed, the board may, at any time upon reasonable notice,
17 modify or set aside all or part of a finding or an order made or
18 issued by the board.

19 Sec. 21. After the record of a hearing conducted under section
20 8 of this chapter is filed with the court under section 20 of this
21 chapter, the jurisdiction of the court to modify, set aside, or
22 enforce a board's order and to grant other appropriate relief is
23 exclusive, and the court's judgment and decree are final, subject to
24 review in accordance with the rules of court.

25 Sec. 22. Petitions filed under section 13 of this chapter shall be
26 heard not later than sixty (60) days after the petitions are docketed.
27 The petition takes precedence over all other civil matters except
28 matters of the same character docketed earlier.

29 Sec. 23. In a court's review of an order of the board under this
30 chapter, the original or modified findings of fact by the board with
31 respect to questions of fact, if supported by substantial evidence on
32 the record considered as a whole, are conclusive.

33 Chapter 5. Collective Bargaining for Public Employees:
34 Mediation and Arbitration

35 Sec. 1. This chapter applies to all bargaining units.

36 Sec. 2. Employers and employees shall bargain collectively. The
37 parties shall enter into a contract embodying the matters on which
38 the parties have agreed during the collective bargaining process.

39 Sec. 3. A contract may not include provisions in conflict with
40 any of the following:

- 41 (1) A right or benefit established by federal or state law.
42 (2) Employee rights described in this article.

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(3) Employer rights described in this article.

Sec. 4. A collective bargaining contract may be in effect for more than one (1) year.

Sec. 5. A contract entered into under section 2 of this chapter must contain a grievance resolution procedure that applies to all employees in the bargaining unit. This procedure must provide for the final and binding arbitration of disputes concerning the administration or interpretation of the contract. The arbitration provisions of the contract are subject to IC 34-57-1.

Sec. 6. Collective bargaining must begin by May 1 of a year in which a collective bargaining agreement is to expire. The parties shall inform the board of the results of collective bargaining.

Sec. 7. If the exclusive representative and the employer have not agreed on a contract forty-five (45) days after collective bargaining begins under section 6 of this chapter, either party may:

- (1) notify the board of the inability to reach an agreement; and
- (2) ask the board for mediation to begin.

Sec. 8. The board shall make a mediator available to the parties at the board's expense within seven (7) days after the board is notified under section 7 of this chapter.

Sec. 9. The mediator provided under section 8 of this chapter shall communicate with both the employer and the exclusive representative and aid the employer and exclusive representative in making a settlement so that the parties may enter into a contract.

Sec. 10. If a dispute has not been resolved, twenty-one (21) days after either party makes a request for mediation under section 7 of this chapter the employer or exclusive representative shall submit a written request for arbitration to the board.

Sec. 11. Not later than ten (10) days after a request for arbitration must be filed under section 10 of this chapter, the employer and the exclusive representative shall each select a member to a panel of arbitration. The employer and exclusive representative shall advise each other and the board of the selections.

Sec. 12. Not later than seven (7) days after the request of either party for arbitration is submitted to the board under section 10 of this chapter, the board shall select from the permanent staff of neutrals or panel of part time neutrals established under IC 22-6.5-2-7 five (5) persons as nominees to serve as impartial arbitrators on the arbitration panel. Not later than five (5) days

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after the selection, the parties shall each alternately strike the names of two (2) of the nominees, with the first person to request arbitration under section 10 of this chapter striking first.

Sec. 13. The member remaining after the striking process under section 12 of this chapter and the members selected by the employer and the exclusive representative constitute the panel. The panel member not struck under section 12 of this chapter is the chairperson of the arbitration panel.

Sec. 14. The chairperson of the arbitration panel shall schedule a hearing to begin not later than fifteen (15) days after the panel's membership is selected and shall give reasonable notice of the date, time, and place of the hearing to the parties. The hearing shall be held at a location the board considers appropriate. The chairperson shall preside over the hearing and take testimony.

Sec. 15. Oral or documentary evidence and other data considered relevant by the arbitration panel may be received in evidence at an arbitration hearing held under this chapter. The hearing shall be informal and the rules of evidence do not apply. A verbatim record of the hearing must be made. The arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering the transcripts, but the transcripts are not necessary for a decision by the arbitration panel.

Sec. 16. If a member of an arbitration panel assembled under this chapter is a public officer or employee, the public officer or employee continues on the payroll of the employer without loss of pay.

Sec. 17. A hearing conducted by an arbitration panel under this chapter may be adjourned periodically but, unless otherwise agreed to by the parties, must be concluded not later than thirty (30) days after the date of commencement. Arbitration proceedings under this chapter may not be interrupted or terminated by an unfair labor practice charge filed by either party at any time.

Sec. 18. An arbitration panel may do the following:

- (1) Administer oaths.
- (2) Require the attendance of witnesses and the production of evidence considered material to a just determination of an issue in dispute.

Sec. 19. An arbitration panel may issue a subpoena under section 18 of this chapter.

Sec. 20. If:

- (1) a person refuses to obey a subpoena or to be sworn or to

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1 testify; or

2 (2) a witness, a party, or an attorney is guilty of contempt at
3 a hearing;

4 the arbitration panel may request the circuit or superior court
5 where the hearing is held to issue an order.

6 Sec. 21. The failure to obey an order issued at the request of an
7 arbitration panel under section 20 of this chapter may be punished
8 by the court as contempt.

9 Sec. 22. Before an award is made, the chairperson of an
10 arbitration panel may remand the dispute to the parties for further
11 collective bargaining for a period not to exceed two (2) weeks. If
12 the dispute is remanded, the time provisions of this chapter are
13 extended for a period equal to that of the remand. The chairperson
14 of the arbitration panel shall notify the board of a remand under
15 this section.

16 Sec. 23. Not later than the conclusion of a hearing held under
17 section 14 of this chapter, the arbitration panel shall identify the
18 economic issues in dispute and direct each party to submit to the
19 arbitration panel and to each other, within the time limit the panel
20 prescribes, each party's last offer of settlement on each economic
21 issue. The determination of an arbitration panel is conclusive
22 concerning the identification of issues in dispute and issues that are
23 economic.

24 Sec. 24. (a) The arbitration panel shall make written findings of
25 fact and adopt a written opinion not later than the end of:

26 (1) thirty (30) days after the conclusion of a hearing; or

27 (2) any further additional periods to which the parties agree.

28 (b) The arbitration panel shall mail a copy of the opinion to the
29 parties, the representatives of the parties, and the board.

30 Sec. 25. (a) As to economic issues, the arbitration panel shall, on
31 an issue by issue basis, adopt the last offer of settlement that, in the
32 opinion of the arbitration panel, more nearly complies with the
33 applicable factors prescribed in section 26 of this chapter.

34 (b) The findings, opinions, and order as to all other issues must
35 also be based upon the applicable factors prescribed in section 26
36 of this chapter.

37 Sec. 26. If there is no agreement between the parties, or if there
38 is an agreement but the parties have begun negotiations or
39 discussions for a new agreement or an amendment of the existing
40 agreement, and wage rates or other conditions of employment
41 under the proposed new or amended agreement are in dispute, the
42 arbitration panel shall base its findings, opinions, and order upon

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the following factors:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the employer to meet the costs.
- (4) Comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of employees performing similar services and with other employees generally in comparable communities.
- (5) The average consumer prices for goods and services.
- (6) The overall compensation currently received by the employees, including the following:
 - (A) Direct wage compensation, vacations, holidays, and other excused time.
 - (B) Insurance, pension, medical, and hospitalization benefits.
 - (C) The continuity and stability of employment.
- (7) Changes in any of the circumstances during the arbitration proceedings.
- (8) Other factors normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, factfinding, or arbitration between parties in public or private employment.

Sec. 27. If a fiscal year begins:

- (1) after the initiation of arbitration procedures under this chapter; and
- (2) before the arbitration decision or enforcement of the decision;

this occurrence does not render a dispute moot or impair the jurisdiction or authority of the arbitration panel or the decision.

Sec. 28. Except as provided in section 29 of this chapter, an increase in rates of compensation awarded by an arbitration panel under this chapter is effective at the beginning of the employer's fiscal year beginning on or after the date of the arbitration award.

Sec. 29. If a fiscal year begins after the initiation of arbitration procedures, section 28 of this chapter does not apply. However, an increase awarded by an arbitration panel under this chapter may be retroactive to the beginning of the fiscal year.

Sec. 30. The parties may, by stipulation, amend or modify an award of arbitration under this chapter.

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1 **Sec. 31.** The costs of arbitration under this chapter shall be
2 shared equally by the parties.

3 **Sec. 32.** Upon petition by either the employer or the exclusive
4 representative, an order of an arbitration panel under this chapter
5 may be reviewed by the circuit or superior court in the county in
6 which the dispute arose or in which a majority of the affected
7 employees reside. However, the only grounds upon which the
8 panel's order may be reviewed are that:

9 (1) the arbitration panel was without authority or exceeded
10 the panel's authority;

11 (2) the order is arbitrary or capricious; or

12 (3) the order was procured by fraud, collusion, or unlawful
13 means.

14 **Sec. 32.** A petition for review of an order of an arbitration panel
15 under section 31 of this chapter must be filed with the circuit court
16 not later than ninety (90) days after the issuance of the arbitration
17 order. The pendency of the proceeding for review does not
18 automatically stay the order of the arbitration panel.

19 **Sec. 33.** The court shall hear the evidence with respect to the
20 issues raised under section 32 of this chapter and may reverse the
21 order of the arbitration panel only if one of the grounds in section
22 32 is found.

23 **Sec. 34.** During the pendency of proceedings before an
24 arbitration panel, currently applicable wages, hours, and other
25 conditions of employment may not be changed by either party
26 without the consent of the other. However, a party may consent to
27 a change without prejudice to the party's rights or position under
28 IC 22-6.5-3 or this chapter.

29 **Sec. 35.** An employee covered under IC 22-6.5-3 and this
30 chapter may not withhold services.

31 **Sec. 36.** An employer may not lock out or prevent an employee
32 from performing services.

33 **Sec. 37.** (a) If the employer is a county, city (as defined by
34 IC 36-1-2-3), town (as defined by IC 36-1-2-21), or township (as
35 defined by IC 36-1-2-22), all terms decided upon by an arbitration
36 panel under this chapter must be included in an agreement to be
37 submitted to the employer's legislative body for ratification and:

38 (1) adoption by ordinance if the unit is a county or
39 municipality; or

40 (2) passage of a resolution if the unit is a township.

41 (b) The legislative body of the county, city, town, or township
42 shall review each of the terms decided by an arbitration panel

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1 under this chapter.

2 **Sec. 38.** If the legislative body of a unit (as defined in
3 IC 36-1-2-23) does not reject a term of an arbitration panel's
4 decision by a vote of at least sixty percent (60%) of all the members
5 of the body within twenty (20) days after the issuance of the
6 decision, the term becomes a part of the collective bargaining
7 agreement.

8 **Sec. 39.** If the legislative body of a county, city, town, or
9 township rejects a term of the arbitration panel's decision, the
10 legislative body must issue written reasons for the rejection of the
11 term to the parties within twenty (20) days after the rejection.
12 Written reasons must be issued under this section for each term
13 that is rejected. The parties shall then return to the arbitration
14 panel within thirty (30) days after the issuance of the reason for
15 rejection for further proceedings and the issuance of a
16 supplemental decision with respect to the rejected terms.

17 **Sec. 40.** A supplemental decision made under section 39 of this
18 chapter by an arbitration panel or other decisionmaker selected by
19 the parties must be submitted to the legislative body of a county,
20 city, town, or township for ratification in accordance with sections
21 37 through 39 of this chapter.

22 **Sec. 41.** The voting requirements of section 38 of this chapter
23 apply to all disputes submitted to arbitration, notwithstanding
24 inconsistent voting requirements that may be contained in a
25 collective bargaining agreement between the parties.

26 **Sec. 42.** The employer shall pay all reasonable costs of a
27 supplemental proceeding under section 39 of this chapter,
28 including the exclusive representative's reasonable attorney's fees,
29 as established by the board.

30 **Sec. 43.** The employer and exclusive representative may agree
31 to submit unresolved disputes concerning wages, hours, terms, and
32 conditions of employment to an alternative form of impasse
33 resolution without regard to this chapter.

34 **Sec. 44.** Except as provided in sections 8 and 42 of this chapter,
35 the cost of procedures under this chapter as determined by the
36 board shall be paid equally by the parties. The board shall
37 establish a complete procedure for the collection and payment of
38 the cost.

39 **Sec. 45.** After the exhaustion of an arbitration mandated by this
40 chapter or procedures mandated by a collective bargaining
41 agreement, a civil action for the violation of an agreement between
42 an employer and a labor organization representing employees may

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1 be brought by either party to the agreement in the circuit or
2 superior court of a county in which:

3 (1) the employer transacts business or conducts governmental
4 affairs; or

5 (2) the employer's principal office is located.

6 Chapter 6. Collective Bargaining for Public Employees:
7 Miscellaneous Provisions

8 Sec. 1. This chapter applies to employers set forth in
9 IC 22-6.5-1.

10 Sec. 2. If this chapter or IC 22-6.5-3 through IC 22-6.5-5
11 conflicts with an Indiana statute, rule, or executive order relating
12 to wages, hours, and conditions of employment and employment
13 relations, this chapter or IC 22-6.5-3 through IC 22-6.5-5 prevails.

14 Sec. 3. For purposes of IC 36-1-3-6, this chapter and IC 22-6.5-3
15 through IC 22-6.5-5 provide the exclusive manner for a unit to
16 exercise the power to bargain collectively with the unit's police and
17 fire department employees.

18 Sec. 4. An employee or exclusive representative may not
19 participate in a strike against an employer.

20 Sec. 5. An employee engaging in a strike is subject to discharge
21 by the employer, as provided for members of police and fire
22 departments of towns and townships in IC 36-8-3-4.

23 Sec. 6. An exclusive representative that engages in or sanctions
24 a strike loses the right to represent the employees for one (1) year
25 after the date of the action.

26 Sec. 7. An employer may not pay an employee for days during
27 which the employee was engaged in a strike.

28 SECTION 5. IC 36-8-2-14 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2002]: Sec. 14. Collective bargaining for public safety employees
31 is governed by IC 22-6.5.

32 SECTION 6. [EFFECTIVE JULY 1, 2002] (a) This act does not:

33 (1) apply to or abrogate a contract or an agreement in effect
34 on June 30, 2002; or

35 (2) preclude arbitration on a provision in a contract or
36 agreement referred to in subdivision (1).

37 (b) This SECTION expires July 1, 2005.

38 SECTION 7. [EFFECTIVE JULY 1, 2002] 105 IAC 6-3 does not
39 apply to an individual who is a member of a collective bargaining
40 unit that has entered into a collective bargaining agreement under
41 IC 22-6.5 for complaints arising while the agreement is in force.

42 SECTION 8. [EFFECTIVE UPON PASSAGE] For bargaining

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1 units created under Executive Order 90-6 and extended under
 2 Executive Order 97-8, assignments of employees to those units are
 3 considered to be made by the state personnel director upon passage
 4 of this act.

5 SECTION 9. [EFFECTIVE UPON PASSAGE] Notwithstanding
 6 IC 22-6.5, as added by this act, an employee organization that is
 7 certified in an election by the public employees relations board
 8 created by Executive Order 90-6 and extended under Executive
 9 Order 97-8 as the exclusive negotiating organization for a
 10 bargaining unit shall be granted recognition as the exclusive
 11 bargaining representative for that unit.

12 SECTION 10. [EFFECTIVE UPON PASSAGE] (a)
 13 Notwithstanding IC 22-6.5-2-2, as added by this act, the terms of
 14 the persons initially appointed to the public employees relations
 15 board shall be as follows:

- 16 (1) Two (2) members appointed for a term of one (1) year.
- 17 (2) One (1) member appointed for a term of two (2) years.
- 18 (3) One (1) member appointed for a term of three (3) years.
- 19 (4) One (1) member appointed for a term of four (4) years.

20 (b) The governor shall make the initial appointments to the
 21 public employees relations board by July 1, 2002.

22 (c) This SECTION expires July 1, 2003.

23 SECTION 11. [EFFECTIVE UPON PASSAGE] (a) The public
 24 employees relations board established by IC 22-65-2, as added by
 25 this act, shall carry out the board's duties under this act under
 26 interim written guidelines approved by the governor.

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

- 28 (1) the date rules are adopted under IC 22-6.5-2-8(2); or
- 29 (2) January 1, 2004.

30 SECTION 12. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1220, 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:

Page 2, line 21, after "corporation" insert ", **the state,**".

Page 2, line 21, after "unit" insert "**as defined in IC 36-1-2-23**".

Page 2, line 22, after "of" insert "**the state or**".

Page 3, between lines 18 and 19, begin a new paragraph and insert:
"SECTION 2. IC 22-6.5 IS ADDED TO THE INDIANA CODE AS
A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
2002]:

**ARTICLE 6.5. COLLECTIVE BARGAINING FOR STATE
AND PUBLIC SAFETY EMPLOYEES**

**Chapter 1. Collective Bargaining for State and Public Safety
Employees: Definitions**

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

**Sec. 2. "Bargain collectively" means to perform the obligation
of an employer (through the employer's executive or the
executive's designee) and of the designee of the exclusive
representative to do the following:**

- (1) Meet at reasonable times, including meetings in advance
of the budget making process.**
- (2) Negotiate in good faith concerning the following:**
 - (A) Wages.**
 - (B) Salaries.**
 - (C) Hours.**
 - (D) Salary and wage related benefits.**
 - (E) All other terms and conditions of employment,
including health and safety conditions.**
- (3) Execute a written contract incorporating an agreement if
a written contract is requested by either party.**

**Sec. 3. "Bargaining unit" means the full-time employees or
members of:**

- (1) a police department (as defined in IC 36-8-1-9);**
- (2) a fire department (as defined in IC 36-8-1-8); or**
- (3) a state agency (as defined in IC 4-15-1.8-1).**

Subdivisions 1 and 2 do not include a person in an upper level
policymaking position (as defined in IC 36-8-1-12), except a person
in an upper level policymaking position included in an agreement
in effect on July 1, 2002.



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Sec. 4. "Board" refers to the Indiana education employment relations board created by IC 20-7.5-1-9.

Sec. 5. "Complainant" means an employer, employee, employee organization, or exclusive representative that files a complaint with the board under IC 22-6.5-3.

Sec. 6. "Employee" means a person who is a member of a bargaining unit.

Sec. 7. "Employee organization" means an organization in which employees participate and that exists to deal with an employer concerning any of the following:

- (1) Grievances.
- (2) Labor disputes.
- (3) Wages.
- (4) Rates of pay.
- (5) Hours of employment.
- (6) Employment conditions.

Sec. 8. "Employer" means any of the following:

- (1) A unit (as defined in IC 36-1-2-23) to which this article applies.
- (2) A person designated by the unit to act in the unit's interests in dealing with employees.
- (3) The state.
- (4) A person designated by the state to act in the state's interests in dealing with employees.

Sec. 9. "Exclusive representative" means an employee organization that is:

- (1) certified under IC 22-6.5-2 by the board; or
- (2) recognized by the employer as the exclusive representative of the employees in a bargaining unit.

Sec. 10. "Respondent" means a person against whom a complainant files a complaint under IC 22-6.5-3.

Sec. 11. "Strike" includes concerted:

- (1) willful absence from the employee's position;
- (2) stoppage of work; or
- (3) abstinence in whole or in part from the full and proper performance of the duties of employment.

Chapter 2. Collective Bargaining for State and Public Safety Employees: Employee Organizations

Sec. 1. This chapter applies to the state and all units (as defined in IC 36-1-2-23).

Sec. 2. The board shall implement and administer this chapter and IC 22-6.5-3 through IC 22-6.5-5. To do so, the board may

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exercise the powers granted to the board under IC 20-7.5-1-9.

Sec. 3. Employees may do the following:

- (1) Form, join, or participate in employee organizations.
- (2) Participate in collective bargaining with the employer through representatives of the employees' choosing.
- (3) Engage in other activities, individually or in concert, to establish, maintain, or improve the following:
 - (A) Salaries.
 - (B) Wages.
 - (C) Hours.
 - (D) Salary and wage related fringe benefits.
 - (E) All other terms and conditions of employment, including health and safety conditions.

Sec. 4. An employer shall manage and direct the employer's operations and activities to the full extent authorized by law.

Sec. 5. An employer may do the following:

- (1) Direct the work of an employee, except where otherwise provided by law.
- (2) Establish policy.
- (3) Hire, promote, demote, transfer, assign, and retain an employee in accordance with law and collective bargaining agreements.
- (4) Suspend or discharge an employee in accordance with law.
- (5) Maintain the efficiency of governmental operations.
- (6) If a unit, take action necessary to carry out the missions of the police department or the fire department, or both.
- (7) If the state, take action necessary to carry out the missions of the state.
- (8) Protect the fiscal soundness and assure the continuation of vital public safety services.
- (9) Take actions necessary to carry out the employer's responsibilities in emergencies, including any of the following:
 - (A) Riot.
 - (B) Military action.
 - (C) Natural disaster.
 - (D) Civil disorder.

Sec. 6. In accordance with rules adopted by the board under IC 4-22-2, the board shall investigate a petition filed with the board by:

- (1) an employee organization alleging that thirty percent (30%) of the employees in the appropriate bargaining unit wish to be represented for collective bargaining purposes by



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an exclusive representative;

- (2) an employer alleging that at least one (1) employee organization has presented a claim to be recognized as the exclusive representative in an appropriate bargaining unit; or
- (3) an employee or a group of employees alleging that thirty percent (30%) of the employees assert that the designated exclusive representative is no longer the representative of the majority of employees in the bargaining unit.

Sec. 7. If the board has reasonable cause to believe that a question of representation exists, the board shall conduct a hearing within thirty (30) days after a petition is filed with the board. If the board finds upon the record of the hearing that a question of representation exists, the board shall do the following:

- (1) Direct an election by secret ballot within thirty (30) days after the hearing.
- (2) Certify the results within ten (10) days after the election.

Sec. 8. If the parties referred to in section 6 of this chapter waive the hearing, the board is not required to conduct a hearing under section 7 of this chapter before a consent election.

Sec. 9. The board shall determine who is eligible to vote in an election directed under section 7 of this chapter and shall establish rules governing the election, subject to the following conditions:

- (1) To be placed on the ballot, an employee organization must be designated by more than ten percent (10%) of the employees in the unit.
- (2) If none of the choices on the ballot receives a majority in an election but a majority of all votes cast are for representation by some employee organization, the board shall conduct a runoff election.
- (3) An employee organization that receives the majority of the votes cast in an election shall be certified by the board as the exclusive representative.

Sec. 10. An election may not be directed in a bargaining unit or in a subdivision of a bargaining unit within which a valid election has been held in the preceding twelve (12) months.

Sec. 11. Notwithstanding sections 6 through 10 of this chapter, an employer shall recognize a particular employee organization as the exclusive representative of the employees within an appropriate bargaining unit if the employee organization presents to the employer evidence that the employee organization represents a majority of the employees within the bargaining unit, unless an employee organization or a group of employees representing

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employees within the bargaining unit files a written objection to recognition with the employer or the board.

Sec. 12. If:

- (1) an employee organization, under section 11 of this chapter, provides an employer with evidence that the employee organization represents a majority of the employees within an appropriate bargaining unit; and
- (2) no written objection to the recognition of the employee organization as the exclusive representative of the employees within the bargaining unit is filed under section 11 of this chapter by another employee organization or a group of employees representing the employees within the bargaining unit;

the board is not required to hold a hearing or to direct an election on the question of whether the employee organization referred to in subdivision (1) shall be recognized as the exclusive representative of the employees within the bargaining unit.

Sec. 13. Before recognizing an employee organization as an exclusive representative under section 11 of this chapter, the employer must post a written public notice of the employer's intention to recognize the employee organization as the exclusive representative of the employees within the bargaining unit. The notice must be posted in a place where it will be seen by the employees within the bargaining unit for at least thirty (30) days immediately preceding the recognition.

Sec. 14. In a case in which:

- (1) there is a historical pattern of recognition; and
- (2) the employer has recognized an employee organization as the sole and exclusive bargaining agent for an existing bargaining unit;

the board shall find that the employees in the bargaining unit are represented by that employee organization and recognize the employee organization as the exclusive representative.

Sec. 15. A determination made under this chapter that an employee organization has been chosen as the exclusive representative by a majority of the employees in an appropriate bargaining unit is subject to judicial review under the same procedure, time limits, and other requirements as are set forth in IC 22-6.5-3-13 through IC 22-6.5-3-23 for review of an order of the board. The record of the board's determination of the appropriate bargaining unit and the exclusive representative may be a part of the transcript of a proceeding under this section.



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Sec. 16. An employer, upon receipt of a written authorization from an employee subject to this chapter, shall:

- (1) deduct from the pay of the employee the dues, fees, or assessments designated or certified by the appropriate officer of an employee organization; and**
- (2) remit those amounts to the employee organization.**

Sec. 17. A collective bargaining agreement with an employee organization that is recognized as an exclusive representative under this chapter may include a provision requiring an employee who is covered by the collective bargaining agreement but is not a member of the employee organization to pay a proportionate share of the costs of the collective bargaining process, contract administration, and matters affecting wages, hours, and conditions of employment. This proportionate share may not exceed the amount of dues uniformly required of members of the employee organization.

Sec. 18. An employee organization referred to in section 17 of this chapter shall certify to an employer the amount constituting each nonmember employee's proportionate share. The employer shall deduct the proportionate share payment from the earnings of a nonmember employee and pay the amount to the employee organization.

Sec. 19. Only the exclusive representative of the employees within a bargaining unit may negotiate provisions in a collective bargaining agreement providing for the payroll deduction of any of the following:

- (1) Labor organization dues.**
- (2) Fair share payment.**
- (3) Initiation fees.**
- (4) Assessments.**

Sec. 20. Except as provided in sections 17 and 18 of this chapter, deductions may be made only upon an employee's written authorization and shall be continued until:

- (1) revoked in writing; or**
- (2) the termination date of the applicable collective bargaining agreement.**

Sec. 21. A collective bargaining agreement providing for an employee who is not a member of the employee organization recognized as the exclusive representative to pay a proportionate share agreement must safeguard the right of nonassociation based upon bona fide religious tenets of an employee. An affected employee may be required to pay an amount equal to the

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employee's proportionate share, determined under a lawful proportionate share agreement, to a nonreligious charitable organization agreed upon by the employee and the exclusive representative to which the employee would otherwise pay the service fee.

Sec. 22. If an affected employee referred to in section 21 of this chapter and the exclusive representative are unable to agree on a payment under section 21 of this chapter, the board may establish an approved list of charitable organizations to which the payments may be made.

Sec. 23. It is an unfair labor practice for an employer to do any of the following:

- (1) Interfere with, restrain, or coerce an employee in the exercise of the rights guaranteed in this chapter or IC 22-6.5-3 through IC 22-6.5-5.
- (2) Dominate, interfere, or assist in the formation or administration of an employee organization, or contribute financial or other support to an employee organization.
- (3) Discriminate in regard to:
 - (A) hiring practices;
 - (B) tenure of employment; or
 - (C) a term or condition of employment;
 to encourage or discourage membership in an employee organization.
- (4) Discharge or otherwise discriminate against an employee because that employee has:
 - (A) filed a complaint, an affidavit, or a petition; or
 - (B) given information or testimony under this chapter or IC 36-11-3.
- (5) Refuse to bargain collectively in good faith with an exclusive representative concerning the following:
 - (A) Wages.
 - (B) Rates of pay.
 - (C) Hours.
 - (D) Working conditions.
 - (E) Any other terms or conditions of employment.
- (6) Fail or refuse to comply with this chapter or IC 22-6.5-3 through IC 22-6.5-5.

Sec. 24. It is an unfair labor practice for an employee organization to do any of the following:

- (1) Interfere with, restrain, or coerce:
 - (A) an employee in the exercise of the rights guaranteed in

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this chapter or IC 22-6.5-3 through IC 22-6.5-5; or
 (B) an employer in the selection of an exclusive representative for collective bargaining or the adjustment of grievances.

(2) Cause or attempt to cause an employer to discriminate against an employee contrary to section 23 of this chapter.

(3) Refuse to bargain collectively in good faith with an employer if the employee organization is the exclusive representative.

(4) Engage in a strike.

(5) Fail to comply with this chapter or IC 22-6.5-3 through IC 22-6.5-5.

Sec. 25. It is not an unfair labor practice for an employer to confer with an employee without loss of time or pay by the employee during working hours.

Sec. 26. It is not an unfair labor practice for an employee organization to adopt rules concerning the acquisition or retention of membership in the employee organization.

Chapter 3. Collective Bargaining for State and Public Safety Employees: Complaints

Sec. 1. This chapter applies to all units.

Sec. 2. (a) An employer, employee, employee organization, or exclusive representative who is aggrieved by an alleged unfair labor practice may file a complaint with the board.

(b) The board shall serve a copy of the complaint on the respondent complained of and notify the respondent of the date and place of a hearing on the complaint.

Sec. 3. (a) The board shall hold a hearing on a complaint not less than five (5) days or more than thirty (30) days after the complaint is served on the respondent.

(b) A notice of a hearing may not be issued based upon an alleged unfair labor practice occurring more than ninety (90) days before the filing of the complaint, unless the complainant was prevented from filing the complaint because of service in the armed forces. In that event, the complaint must be filed not more than ninety (90) days after the complainant's discharge from the armed forces.

Sec. 4. (a) A complaint may be amended by the complainant at any time before the issuance of an order by the board if the respondent would not be unfairly prejudiced by the amendment.

(b) The respondent shall file an answer to the original or amended complaint. The complainant and the respondent are

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parties and are entitled to appear in person or otherwise give testimony at the hearing. At the discretion of the board, an interested person may be allowed to intervene in the hearing and present testimony.

Sec. 5. The board is not bound by the rules of evidence in conducting a hearing under this chapter. Testimony received at a hearing shall be reduced to writing and filed with the board. After receiving the testimony, the board may take further testimony or hear arguments upon notice to the parties.

Sec. 6. (a) In a proceeding on a complaint under this chapter, the board shall make a determination based on the preponderance of evidence received.

(b) If the board determines that the respondent was or is engaged in an unfair labor practice, the board shall state the findings of fact and serve on the respondent an order requiring that the respondent cease the unfair labor practice and take affirmative actions, including reinstatement of an employee with or without back pay, to carry out this chapter, IC 22-6.5-2, IC 22-6.5-4, or IC 22-6.5-5. The order may further require that the respondent make reports showing the extent of the respondent's compliance with the order.

Sec. 7. If the board determines that a respondent:

- (1) did not engage in; or
- (2) is not engaging in;

an unfair labor practice, the board shall state the findings of fact and dismiss the complaint.

Sec. 8. A hearing may be conducted by:

- (1) a member of the board; or
- (2) a hearing examiner or an agency designated by the board;

instead of by the full board. However, after the hearing, the member, hearing examiner, or agency shall serve on the parties and file with the board proposed findings and a recommended order.

Sec. 9. If an exception is not filed by a party:

- (1) within twenty (20) days after service on the parties; or
- (2) within a period authorized by the board;

the recommended order filed under section 8 of this chapter becomes the order of the board.

Sec. 10. If an exception to a recommended order filed under section 8 of this chapter is filed, the board shall grant review if the board determines that the exception raises a substantial issue of fact or law.



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Sec. 11. If the board determines that an exception to a recommended order filed under section 8 of this chapter does not raise a substantial issue of fact or law, the recommended order becomes the order of the board.

Sec. 12. An order of the board under sections 8 through 11 of this chapter is a final order and binding on the parties to the complaint, subject to judicial review under sections 13 through 23 of this chapter.

Sec. 13. Not later than thirty (30) days after service of the board's order on the complainant and respondent under:

- (1) IC 22-6.5-2-6 through IC 22-6.5-2-15; or
- (2) sections 1 through 11 of this chapter;

the board or the complainant may petition the circuit or superior court of a county in which the unit is located for an employee of a unit, and for an employee of the state in the county in which the employee is employed for the enforcement of the board's order and for appropriate relief.

Sec. 14. A party aggrieved by the board's order may petition the court for a review of the order and for appropriate relief. If a petition is not filed within the thirty (30) day period allowed by section 13 of this chapter, the order may not be reviewed. The board shall then file a petition with the court to enforce the order.

Sec. 15. The commencement of proceedings after the filing of a petition under section 14 of this chapter does not, unless specifically ordered by the court, operate as a stay of the board's order.

Sec. 16. After a petition is filed under section 14 of this chapter, the court shall have notice of the petition served upon the parties and send a copy to the board. If the plaintiff is an employee under IC 22-6.5-1-3(3), the notice shall be served upon the attorney general as provided in IC 4-6-2-1, who shall defend the action.

Sec. 17. In a proceeding on a petition filed under section 14 of this chapter, an objection that was not made at the hearing conducted under section 8 of this chapter may not be considered by the court, unless the failure to make the objection is excused because of extraordinary circumstances.

Sec. 18. If either party to a petition filed under section 14 of this chapter applies to the court for leave to introduce additional evidence and shows to the satisfaction of the court that:

- (1) the additional evidence is material; and
- (2) there were reasonable grounds for the failure to introduce the evidence in the hearing conducted under section 8 of this

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chapter;

the court may order the additional evidence to be taken by the board and made a part of the record.

Sec. 19. After a court, under section 18 of this chapter, orders the board to make additional evidence a part of the record, the board:

- (1) may modify the findings of fact by reason of the additional evidence; and
- (2) shall file any modified findings and any recommendations for a modification or setting aside of the original order with the court.

Sec. 20. A party who petitions a court for review of an order of the board under section 14 of this chapter must file a record of the hearing, certified by the board, with the court. Until a record of the hearing is filed, the board may, at any time upon reasonable notice, modify or set aside all or part of a finding or an order made or issued by the board.

Sec. 21. After the record of a hearing conducted under section 8 of this chapter is filed with the court under section 20 of this chapter, the jurisdiction of the court to modify, set aside, or enforce a board's order and to grant other appropriate relief is exclusive, and the court's judgment and decree are final, subject to review in accordance with the rules of court.

Sec. 22. Petitions filed under section 13 of this chapter shall be heard not later than sixty (60) days after the petitions are docketed. The petition takes precedence over all other civil matters except matters of the same character docketed earlier.

Sec. 23. In a court's review of an order of the board under this chapter, the original or modified findings of fact by the board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, are conclusive.

Chapter 4. Collective Bargaining for State and Public Safety Employees: Mediation and Arbitration

Sec. 1. This chapter applies to all bargaining units.

Sec. 2. Employers and employees shall bargain collectively. The parties shall enter into a contract embodying the matters on which the parties have agreed during the collective bargaining process.

Sec. 3. A contract may not include provisions in conflict with any of the following:

- (1) A right or benefit established by federal or state law.
- (2) Employee rights described in this article.
- (3) Employer rights described in this article.



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Sec. 4. A collective bargaining contract may be in effect for more than one (1) year.

Sec. 5. A contract entered into under section 2 of this chapter must contain a grievance resolution procedure that applies to all employees in the bargaining unit. This procedure must provide for the final and binding arbitration of disputes concerning the administration or interpretation of the contract. The arbitration provisions of the contract are subject to IC 34-57-1.

Sec. 6. Collective bargaining must begin by May 1 of a year in which a collective bargaining agreement is to expire. The parties shall inform the board of the results of collective bargaining.

Sec. 7. If the exclusive representative and the employer have not agreed on a contract forty-five (45) days after collective bargaining begins under section 6 of this chapter, either party may:

- (1) notify the board of the inability to reach an agreement; and**
- (2) ask the board for mediation to begin.**

Sec. 8. The board shall make a mediator available to the parties at the board's expense within seven (7) days after the board is notified under section 7 of this chapter.

Sec. 9. The mediator provided under section 8 of this chapter shall communicate with both the employer and the exclusive representative and aid the employer and exclusive representative in making a settlement so that the parties may enter into a contract.

Sec. 10. If a dispute has not been resolved, twenty-one (21) days after either party makes a request for mediation under section 7 of this chapter the employer or exclusive representative shall submit a written request for arbitration to the board.

Sec. 11. Not later than ten (10) days after a request for arbitration must be filed under section 10 of this chapter, the employer and the exclusive representative shall each select a member to a panel of arbitration. The employer and exclusive representative shall advise each other and the board of the selections.

Sec. 12. Not later than seven (7) days after the request of either party for arbitration is submitted to the board under section 10 of this chapter, the board shall select from the permanent staff of fact finders or panel of part time fact finders established under IC 20-7.5-1-13 five (5) persons as nominees to serve as impartial arbitrators on the arbitration panel. Not later than five (5) days after the selection, the parties shall each alternately strike the

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names of two (2) of the nominees, with the first person to request arbitration under section 10 of this chapter striking first.

Sec. 13. The member remaining after the striking process under section 12 of this chapter and the members selected by the employer and the exclusive representative constitute the panel. The panel member not struck under section 12 of this chapter is the chairperson of the arbitration panel.

Sec. 14. The chairperson of the arbitration panel shall schedule a hearing to begin not later than fifteen (15) days after the panel's membership is selected and shall give reasonable notice of the date, time, and place of the hearing to the parties. The hearing shall be held at a location the board considers appropriate. The chairperson shall preside over the hearing and take testimony.

Sec. 15. Oral or documentary evidence and other data considered relevant by the arbitration panel may be received in evidence at an arbitration hearing held under this chapter. The hearing shall be informal and the rules of evidence do not apply. A verbatim record of the hearing must be made. The arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering the transcripts, but the transcripts are not necessary for a decision by the arbitration panel.

Sec. 16. If a member of an arbitration panel assembled under this chapter is a public officer or employee, the public officer or employee continues on the payroll of the employer without loss of pay.

Sec. 17. A hearing conducted by an arbitration panel under this chapter may be adjourned periodically but, unless otherwise agreed to by the parties, must be concluded not later than thirty (30) days after the date of commencement. Arbitration proceedings under this chapter may not be interrupted or terminated by an unfair labor practice charge filed by either party at any time.

Sec. 18. An arbitration panel may do the following:

- (1) Administer oaths.
- (2) Require the attendance of witnesses and the production of evidence considered material to a just determination of an issue in dispute.

Sec. 19. An arbitration panel may issue a subpoena under section 18 of this chapter.

Sec. 20. If:

- (1) a person refuses to obey a subpoena or to be sworn or to testify; or



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(2) a witness, a party, or an attorney is guilty of contempt at a hearing;
the arbitration panel may request the circuit or superior court where the hearing is held to issue an order.

Sec. 21. The failure to obey an order issued at the request of an arbitration panel under section 20 of this chapter may be punished by the court as contempt.

Sec. 22. Before an award is made, the chairperson of an arbitration panel may remand the dispute to the parties for further collective bargaining for a period not to exceed two (2) weeks. If the dispute is remanded, the time provisions of this chapter are extended for a period equal to that of the remand. The chairperson of the arbitration panel shall notify the board of a remand under this section.

Sec. 23. Not later than the conclusion of a hearing held under section 14 of this chapter, the arbitration panel shall identify the economic issues in dispute and direct each party to submit to the arbitration panel and to each other, within the time limit the panel prescribes, each party's last offer of settlement on each economic issue. The determination of an arbitration panel is conclusive concerning the identification of issues in dispute and issues that are economic.

Sec. 24. (a) The arbitration panel shall make written findings of fact and adopt a written opinion not later than the end of:

- (1) thirty (30) days after the conclusion of a hearing; or
- (2) any further additional periods to which the parties agree.

(b) The arbitration panel shall mail a copy of the opinion to the parties, the representatives of the parties, and the board.

Sec. 25. (a) As to economic issues, the arbitration panel shall, on an issue by issue basis, adopt the last offer of settlement that, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in section 26 of this chapter.

(b) The findings, opinions, and order as to all other issues must also be based upon the applicable factors prescribed in section 26 of this chapter.

Sec. 26. If there is no agreement between the parties, or if there is an agreement but the parties have begun negotiations or discussions for a new agreement or an amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions, and order upon the following factors:



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- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the employer to meet the costs.
- (4) Comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of employees performing similar services and with other employees generally in comparable communities.
- (5) The average consumer prices for goods and services.
- (6) The overall compensation currently received by the employees, including the following:
 - (A) Direct wage compensation, vacations, holidays, and other excused time.
 - (B) Insurance, pension, medical, and hospitalization benefits.
 - (C) The continuity and stability of employment.
- (7) Changes in any of the circumstances during the arbitration proceedings.
- (8) Other factors normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, factfinding, or arbitration between parties in public or private employment.

Sec. 27. If a fiscal year begins:

- (1) after the initiation of arbitration procedures under this chapter; and
- (2) before the arbitration decision or enforcement of the decision;

this occurrence does not render a dispute moot or impair the jurisdiction or authority of the arbitration panel or the decision.

Sec. 28. Except as provided in section 29 of this chapter, an increase in rates of compensation awarded by an arbitration panel under this chapter is effective at the beginning of the employer's fiscal year beginning on or after the date of the arbitration award.

Sec. 29. If a fiscal year begins after the initiation of arbitration procedures, section 28 of this chapter does not apply. However, an increase awarded by an arbitration panel under this chapter may be retroactive to the beginning of the fiscal year.

Sec. 30. The parties may, by stipulation, amend or modify an award of arbitration under this chapter.

Sec. 31. The costs of arbitration under this chapter shall be

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shared equally by the parties.

Sec. 32. Upon petition by either the employer or the exclusive representative, an order of an arbitration panel under this chapter may be reviewed by the circuit or superior court in the county in which the dispute arose or in which a majority of the affected employees reside. However, the only grounds upon which the panel's order may be reviewed are that:

- (1) the arbitration panel was without authority or exceeded the panel's authority;
- (2) the order is arbitrary or capricious; or
- (3) the order was procured by fraud, collusion, or unlawful means.

Sec. 32. A petition for review of an order of an arbitration panel under section 31 of this chapter must be filed with the circuit court not later than ninety (90) days after the issuance of the arbitration order. The pendency of the proceeding for review does not automatically stay the order of the arbitration panel.

Sec. 33. The court shall hear the evidence with respect to the issues raised under section 32 of this chapter and may reverse the order of the arbitration panel only if one of the grounds in section 32 is found.

Sec. 34. During the pendency of proceedings before an arbitration panel, currently applicable wages, hours, and other conditions of employment may not be changed by either party without the consent of the other. However, a party may consent to a change without prejudice to the party's rights or position under IC 22-6.5-2 or this chapter.

Sec. 35. An employee covered under IC 22-6.5-2 and this chapter may not withhold services.

Sec. 36. An employer may not lock out or prevent an employee from performing services.

Sec. 37. (a) If the employer is a unit (as defined in IC 36-1-2-23), all terms decided upon by an arbitration panel under this chapter must be included in an agreement to be submitted to the employer's legislative body for ratification and:

- (1) adoption by ordinance if the unit is a county or municipality; or
- (2) passage of a resolution if the unit is a township.

(b) The legislative body of the unit shall review each of the terms decided by an arbitration panel under this chapter.

Sec. 38. If the legislative body of a unit (as defined in IC 36-1-2-23) does not reject a term of an arbitration panel's

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decision by a vote of at least sixty percent (60%) of all the members of the body within twenty (20) days after the issuance of the decision, the term becomes a part of the collective bargaining agreement.

Sec. 39. If the legislative body of a unit (as defined in IC 36-1-2-23) rejects a term of the arbitration panel's decision, the legislative body must issue written reasons for the rejection of the term to the parties within twenty (20) days after the rejection. Written reasons must be issued under this section for each term that is rejected. The parties shall then return to the arbitration panel within thirty (30) days after the issuance of the reason for rejection for further proceedings and the issuance of a supplemental decision with respect to the rejected terms.

Sec. 40. A supplemental decision made under section 39 of this chapter by an arbitration panel or other decisionmaker selected by the parties must be submitted to the legislative body of a unit for ratification in accordance with sections 37 through 39 of this chapter.

Sec. 41. The voting requirements of section 38 of this chapter apply to all disputes submitted to arbitration, notwithstanding inconsistent voting requirements that may be contained in a collective bargaining agreement between the parties.

Sec. 42. The employer shall pay all reasonable costs of a supplemental proceeding under section 39 of this chapter, including the exclusive representative's reasonable attorney's fees, as established by the board.

Sec. 43. The employer and exclusive representative may agree to submit unresolved disputes concerning wages, hours, terms, and conditions of employment to an alternative form of impasse resolution without regard to this chapter.

Sec. 44. Except as provided in sections 8 and 42 of this chapter, the cost of procedures under this chapter as determined by the board shall be paid equally by the parties. The board shall establish a complete procedure for the collection and payment of the cost.

Sec. 45. After the exhaustion of an arbitration mandated by this chapter or procedures mandated by a collective bargaining agreement, a civil action for the violation of an agreement between an employer and a labor organization representing employees may be brought by either party to the agreement in the circuit or superior court of a county in which:

- (1) the employer transacts business; or

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(2) the employer's principal office is located.

Chapter 5. Collective Bargaining for State and Public Safety Employees: Miscellaneous Provisions

Sec. 1. This chapter applies to state and all units (as defined in IC 36-1-2-23).

Sec. 2. If this chapter or IC 22-6.5-2 through IC 22-6.5-4 conflicts with an Indiana statute, rule, or executive order relating to wages, hours, and conditions of employment and employment relations, this chapter or IC 22-6.5-2 through IC 22-6.5-4 prevails.

Sec. 3. For purposes of IC 36-1-3-6, this chapter and IC 22-6.5-2 through IC 22-6.5-4 provide the exclusive manner for a unit to exercise the power to bargain collectively with the unit's police and fire department employees.

Sec. 4. An employee or exclusive representative may not participate in a strike against an employer.

Sec. 5. An employee engaging in a strike is subject to discharge by the employer, as provided for members of police and fire departments of towns and townships in IC 36-8-3-4.

Sec. 6. An exclusive representative that engages in or sanctions a strike loses the right to represent the employees for one (1) year after the date of the action.

Sec. 7. An employer may not pay an employee for days during which the employee was engaged in a strike."

Page 3, line 22, delete "IC 36-11." and insert "IC 22-6.5."

Page 3, delete lines 23 through 42.

Delete pages 4 through 19.

Page 20, delete lines 1 through 36.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1220 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 7, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1220 be amended to read as follows:

Page 2, line 21, after "state," insert "**a state educational institution (as defined by IC 20-12-0.5-1),**".

Page 2, line 22, delete "unit as defined in IC 36-1-2-23" and insert "**county, city (as defined by IC 36-1-2-3), town (as defined by IC 36-1-2-21), or township (as defined by IC 36-1-2-22)**".

Page 2, line 23, delete "state or".

Page 2, line 23, strike "that" and insert "**state,**".

Page 2, line 23, after "corporation" insert ",".

Page 2, line 23, delete "or unit" and insert "**state educational institution, county, city, town, or township**".

Page 3, between lines 19 and 20, begin a new paragraph and insert:
 "SECTION 2. IC 20-7.5-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. The school employer shall, on receipt of the written authorization of a school employee, deduct from the pay of such employee any dues **or assessments** designated or certified by the appropriate officer of a school employee organization which is an exclusive representative of any employees of the school employer and shall remit such dues to such school employee organization; however, such deductions shall be consistent with the provisions of IC 22-2-6 and IC 22-2-7, and IC 20-6.1-5-11.

SECTION 3. IC 20-7.5-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. ~~Strikes:~~

(a) It shall be unlawful for any school employee, school employee organization, or any affiliate, including but not limited to state or national affiliates thereof, to take part in or assist in a strike against a school employer or school corporation.

(b) Any school corporation or school employer may, in an action at law, suit in equity, or other proper proceeding, take action against any ~~school employee organization, any affiliate thereof, or any person aiding or abetting in a strike, for redress of such unlawful act.~~

(c) ~~Where~~ **When** any exclusive representative engages in a strike, or aids or abets therein, **the school employer or school corporation may petition a circuit or superior court in:**

(1) the county in which the violation has occurred; or

(2) Marion County;

for remedy against the exclusive representative. The exclusive remedy against the exclusive representative, including remedy for violations of IC 34-47, it shall lose is loss of its dues deduction privilege for a period of one (1) year.

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(d) No regulation, rule or law with respect to the minimum length of a school year shall be applicable or shall require make-up days in any situation where schools in a school corporation are closed as a result of a school employee strike. A school corporation shall not pay any school employee for any day when the school employee fails as a result of a strike to report for work as required by the school year calendar."

Page 3, line 23, delete "STATE".

Page 3, line 24, delete "AND".

Page 3, line 24, delete "SAFETY".

Page 3, line 25, delete "Collective Bargaining for State and Public Safety".

Page 3, line 26, delete "Employees:".

Page 4, line 2, delete "the full-time employees or" and insert " **a class or group of jobs or positions that are held by employees of employers as defined in section 9 of this chapter whose collective interests may be suitably represented by an employee organization for collective bargaining.**

Sec. 4. "Board" refers to the public employees relations board established by IC 22-6.5-2-1."

Page 4, delete lines 3 through 12.

Page 4, line 15, delete "IC 22-6.5-3" and insert "IC 22-6.5-4".

Page 4, delete lines 16 through 17, begin a new paragraph and insert:

"Sec. 6. "Confidential employee" means an employee:

- (1) who works in the personnel office of the employer;**
- (2) who has access to confidential or discretionary information that may be used by the employer in negotiating a collective bargaining agreement under this article;**
- (3) who works in a close and continuing working relationship with:**

(A) an individual holding elective office; or

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

(4) whose:

(A) functional responsibilities; or

(B) knowledge;

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

(5) who is a personal secretary of:

(A) the chief administrative or executive officer of an

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agency;

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

(C) an individual holding elected office.

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

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

(2) A school corporation (as defined in IC 20-10.1-1-1) regarding the school corporation's noncertificated employees (as defined in IC 20-7.5-1-2(g)).

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

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

(2) A member of a board or commission.

(3) A confidential employee.

(4) A supervisor.

(5) A managerial employee.

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

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

(8) The chief administrative or executive officer of an agency.

(9) An attorney whose responsibilities include the providing of legal advice or the performance of legal research.

(10) A physician or a dentist.

(11) An administrative law judge.

(12) An individual who performs internal investigations.

(13) A neutral.

(14) An employee of an eligible political subdivision as defined in section 7 of this chapter who is not included for coverage under this article under the terms of an ordinance or a resolution adopted under IC 5-27-3-2.

(15) A local public safety officer.

(16) A professional employee of the department of commerce who participates in economic development matters.

(17) A certificated employee of a school corporation as defined in IC 20-7.5-1-2(f)."

Page 4, line 18, delete "7." and insert "9."

Page 4, line 27, delete "8." and insert "10. (a)".

Page 4, delete lines 28 through 34, begin a new line block indented and insert:

"(1) The executive branch.

(2) A state educational institution (as defined by

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IC 20-12-0.5-1).

(3) An eligible political subdivision.

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

(1) The senate, the house of representatives, the legislative services agency, or any commission or agency of the legislative department of the state.

(2) The judicial department of government, including any commission or agency of the judicial department.

(3) A school corporation, as to the school corporation's certificated employees.

(4) Unless specifically included under section 11 of this chapter, the office of an individual holding an elected office.

(5) Bodies corporate and politic.

(6) The budget agency.

(7) Uniformed members of the national guard.

(8) The state personnel department.

(9) The public employees relations board.

(10) The education employment relations board.

(11) The state board of accounts."

Page 4, line 35, delete "9." and insert "11."

Page 4, line 37, delete "IC 22-6.5-2" and insert "IC 22-6.5-3".

Page 4, between lines 39 and 40, begin a new paragraph and insert:

"Sec. 12. "Executive branch" means the agencies (as defined in IC 4-22-2-3) under the direct authority of the governor.

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

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

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

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

Sec. 15. "Mediation" means assistance by an impartial third party to reconcile an impasse through persuasion, suggestion, and advice.

Sec. 16. "Neutral" includes the following:

(1) Factfinder.

(2) Arbitrator.

(3) Mediator."

Page 4, line 40, delete "10." and insert "17."

Page 4, line 42, delete "11." and insert "18."

Page 5, line 2, delete "or".

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Page 5, line 4, delete "." and insert "; or".

Page 5, between lines 4 and 5, begin a new line block indented and insert:

"(4) refusal to report to duty.

Sec. 19. "Supervisor" means an individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Sec. 20. "Temporary employee" means an individual who is employed in a temporary position for not more than ninety (90) days."

Page 5, between lines 4 and 5, begin a new paragraph and insert:

"Chapter 2. Public Employees Relations Board

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

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

(b) A board member may not:

- (1) be a representative of or be employed by an employee organization or an affiliate of an employee organization; or**
- (2) hold any other public office.**

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

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

Sec. 4. (a) The governor shall designate a member of the board to serve as the chairperson. The chairperson:

- (1) shall serve as the full time director; and**
- (2) must possess educational credentials and experience in labor relations matters as a prerequisite to designation as chairperson.**

(b) The chairperson shall give full time to the chairperson's duties. The chairperson of the board shall not engage in any other business, vocation, or employment.

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

(b) Each member of the board is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties

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as provided in state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 6. A majority of the members appointed to the board constitutes a quorum.

Sec. 7. The board shall do the following:

- (1) Process and make determinations concerning prohibited practices complaints under IC 22-6.5-5-35 and IC 22-6.5-5-36.**
- (2) Provide impasse services.**
- (3) Provide research services.**
- (4) Process and make determinations concerning bargaining unit and representation matters under this article.**
- (5) Establish the qualifications of neutrals after consultation with the designated representatives of the employer and the exclusive bargaining representatives.**
- (6) Maintain a register of neutrals for use by the employer and exclusive bargaining representatives drawn from a nationwide pool of qualified neutrals.**
- (7) Enforce its own decisions and determinations according to IC 4-21.5.**

Sec. 8. The board may do the following:

- (1) Appoint staff (including attorneys who may represent the board in legal proceedings) subject to IC 4-15-2, necessary for the performance of the board's duties. However, the staff director and chief counsel for the board 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 board in legal proceedings.**
- (5) Contract for the services of other professionals.**
- (6) Designate a board 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 board, unless the parties agree to use another list of neutrals. If the board list is used to appoint an arbitrator, the parties shall



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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."

Page 5, line 5, delete "2." and insert "3."

Page 5, line 5, delete "State and".

Page 5, line 5, delete "Safety".

Page 5, line 7, after "state" insert "**executive branch, state educational institutions,**".

Page 5, line 7, delete "all units (as defined)" and insert "**eligible political subdivisions.**".

Page 5, delete line 8.

Page 5, line 11, delete "IC 20-7.5-1-9." and insert "**IC 22-6.5-2-8.**".

Page 5, line 35, delete "a unit," and insert "**an eligible political subdivision,**".

Page 5, line 36, delete "police department or the fire department, or both." and insert "**eligible political subdivision.**".

Page 5, line 37, after "state," insert "**a school corporation, or a state educational institution,**".

Page 5, line 38, delete "state." and insert "**state, school corporation, or state educational institution.**".

Page 6, line 35, after "the" insert "**bargaining**".

Page 8, line 7, delete "IC 22-6.5-3-13" and insert "**IC 22-6.5-4-13**".

Page 8, line 7, delete "IC 22-6.5-3-23" and insert "**IC 22-6.5-4-23**".

Page 8, between lines 40 and 41, begin a new line block indented and insert:

(5) Maintenance of membership."

Page 9, line 24, delete "IC 22-6.5-3" and insert "**IC 22-6.5-4**".

Page 9, line 25, delete "IC 22-6.5-5." and insert "**IC 22-6.5-6.**".

Page 9, line 39, delete "IC 36-11-3." and insert "**IC 22-6.5-4.**".

Page 10, line 5, delete "IC 22-6.5-3" and insert "**IC 22-6.5-4**".

Page 10, line 6, delete "IC 22-6.5-5." and insert "**IC 22-6.5-6.**".

Page 10, line 11, delete "IC 22-6.5-3" and insert "**IC 22-6.5-4**".

Page 10, line 11, delete "IC 22-6.5-5;" and insert "**IC 22-6.5-6;**".

Page 10, line 21, delete "IC 22-6.5-3" and insert "**IC 22-6.5-4**".

Page 10, line 22, delete "IC 22-6.5-5." and insert "**IC 22-6.5-6**".

Page 10, line 29, delete "3." and insert "4."

Page 10, line 29, delete "State and".

Page 10, line 29, delete "Safety".

Page 10, line 31, delete "units." and insert "**employers as defined in IC 22-6.5-1**".

Page 11, line 28, delete "IC 22-6.5-2" and insert "**IC 22-6.5-3**".

Page 11, line 29, delete "IC 22-6.5-4," and insert "**IC 22-6.5-5**".

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- Page 11, line 29, delete "IC 22-6.5-5" and insert "**IC 22-6.5-6**".
- Page 12, line 21, delete "IC 22-6.5-2-6" and insert "**IC 22-6.5-3-6**".
- Page 12, line 21, delete "IC 22-6.5-2-15" and insert "**IC 22-6.5-3-15**".
- Page 12, line 39, delete "under" and insert "**of**".
- Page 12, line 40, delete "IC 22-6.5-1-3(3)" and insert "**IC 22-6.5-1-10(a)(1)**".
- Page 13, line 42, delete "4." and insert "**5.**".
- Page 13, line 42, delete "State and".
- Page 13, line 42, delete "Safety".
- Page 15, line 6, delete "fact" and insert "**neutrals**".
- Page 15, line 7, before "or" delete "finders".
- Page 15, line 7, after "part time" delete "fact finders" and insert "**neutrals**".
- Page 15, line 8, delete "IC 20-7.5-1-13" and insert "**IC 22-6.5-2-7**".
- Page 18, line 37, delete "IC 22-6.5-2" and insert "**IC 22-6.5-3**".
- Page 18, line 38, delete "IC 22-6.5-2" and insert "**IC 22-6.5-3**".
- Page 18, line 42, delete "unit (as defined in IC 36-1-2-23)," and insert "**county, city (as defined by IC 36-1-2-3), town (as defined by IC 36-1-2-21), or township (as defined by IC 36-1-2-22),**".
- Page 19, line 7, delete "unit" and insert "**county, city, town, or township**".
- Page 19, line 15, delete "unit (as defined in" and insert "**county, city, town, or township**".
- Page 19, line 16, delete "IC 36-1-2-23)".
- Page 19, line 26, delete "unit" and insert "**county, city, town, or township**".
- Page 20, line 10, delete "business;" and insert "**business or conducts governmental affairs;**".
- Page 20, line 12, delete "5." and insert "**6.**".
- Page 20, line 12, delete "State and".
- Page 20, line 12, delete "Safety".
- Page 20, line 14, delete "state and all units (as defined in" and insert "**employers set forth in**".
- Page 20, line 15, delete "IC 36-1-2-23)." and insert "**IC 22-6.5-1)**".
- Page 20, line 16, delete "IC 22-6.5-2" and insert "**IC 22-6.5-3**".
- Page 20, line 16, delete "IC 22-6.5-4" and insert "**IC 22-6.5-5**".
- Page 20, line 19, delete "IC 22-6.5-2" and insert "**IC 22-6.5-3**".
- Page 20, line 19, delete "IC 22-6.5-4" and insert "**IC 22-6.5-5**".
- Page 20, line 20, delete "IC 22-6.5-2" and insert "**IC 22-6.5-3**".
- Page 20, line 21, delete "IC 22-6.5-4" and insert "**IC 22-6.5-5**".
- Page 21, after line 1, begin a new paragraph and insert:

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"SECTION 7. [EFFECTIVE JULY 1, 2002] **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 22-6.5 for complaints arising while the agreement is in force.**

SECTION 8. [EFFECTIVE UPON PASSAGE] **For bargaining units created under Executive Order 90-6 and extended under Executive Order 97-8, assignments of employees to those units are considered to be made by the state personnel director upon passage of this act.**

SECTION 9. [EFFECTIVE UPON PASSAGE] **Notwithstanding IC 22-6.5, as added by this act, an employee organization that is certified in an election by the public employees relations board created by Executive Order 90-6 and extended under Executive Order 97-8 as the exclusive negotiating organization for a bargaining unit shall be granted recognition as the exclusive bargaining representative for that unit.**

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 22-6.5-2-2, as added by this act, the terms of the persons initially appointed to the public employees relations board shall be as follows:**

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

(b) **The governor shall make the initial appointments to the public employees relations board by July 1, 2002.**

(c) **This SECTION expires July 1, 2003.**

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) **The public employees relations board established by IC 22-65-2, as added by this act, shall carry out the board's duties under this act under interim written guidelines approved by the governor.**

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

- (1) **the date rules are adopted under IC 22-6.5-2-8(2); or**
- (2) **January 1, 2004.**

SECTION 12. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1220 as printed January 30, 2002.)

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