

Adopted Rejected

COMMITTEE REPORT

YES: **7**
NO: **4**

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:*

- 1 Page 2, line 21, after "corporation" insert "**the state**".
- 2 Page 2, line 21, after "unit" insert "**as defined in IC 36-1-2-23**".
- 3 Page 2, line 22, after "of" insert "**the state or**".
- 4 Page 3, between lines 18 and 19, begin a new paragraph and insert:
- 5 "SECTION 2. IC 22-6.5 IS ADDED TO THE INDIANA CODE AS
- 6 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 7 2002]:
- 8 **ARTICLE 6.5. COLLECTIVE BARGAINING FOR STATE**
- 9 **AND PUBLIC SAFETY EMPLOYEES**
- 10 **Chapter 1. Collective Bargaining for State and Public Safety**
- 11 **Employees: Definitions**
- 12 **Sec. 1. The definitions in this chapter apply throughout this**
- 13 **article.**
- 14 **Sec. 2. "Bargain collectively" means to perform the obligation**

1 of an employer (through the employer's executive or the
2 executive's designee) and of the designee of the exclusive
3 representative to do the following:

4 (1) Meet at reasonable times, including meetings in advance
5 of the budget making process.

6 (2) Negotiate in good faith concerning the following:

7 (A) Wages.

8 (B) Salaries.

9 (C) Hours.

10 (D) Salary and wage related benefits.

11 (E) All other terms and conditions of employment,
12 including health and safety conditions.

13 (3) Execute a written contract incorporating an agreement if
14 a written contract is requested by either party.

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

17 (1) a police department (as defined in IC 36-8-1-9);

18 (2) a fire department (as defined in IC 36-8-1-8); or

19 (3) a state agency (as defined in IC 4-15-1.8-1).

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

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

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

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

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

34 (1) Grievances.

35 (2) Labor disputes.

36 (3) Wages.

37 (4) Rates of pay.

38 (5) Hours of employment.

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(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 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.**

1 (E) All other terms and conditions of employment,
2 including health and safety conditions.

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

5 Sec. 5. An employer may do the following:

6 (1) Direct the work of an employee, except where otherwise
7 provided by law.

8 (2) Establish policy.

9 (3) Hire, promote, demote, transfer, assign, and retain an
10 employee in accordance with law and collective bargaining
11 agreements.

12 (4) Suspend or discharge an employee in accordance with law.

13 (5) Maintain the efficiency of governmental operations.

14 (6) If a unit, take action necessary to carry out the missions of
15 the police department or the fire department, or both.

16 (7) If the state, take action necessary to carry out the missions
17 of the state.

18 (8) Protect the fiscal soundness and assure the continuation of
19 vital public safety services.

20 (9) Take actions necessary to carry out the employer's
21 responsibilities in emergencies, including any of the following:

22 (A) Riot.

23 (B) Military action.

24 (C) Natural disaster.

25 (D) Civil disorder.

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

29 (1) an employee organization alleging that thirty percent
30 (30%) of the employees in the appropriate bargaining unit
31 wish to be represented for collective bargaining purposes by
32 an exclusive representative;

33 (2) an employer alleging that at least one (1) employee
34 organization has presented a claim to be recognized as the
35 exclusive representative in an appropriate bargaining unit; or

36 (3) an employee or a group of employees alleging that thirty
37 percent (30%) of the employees assert that the designated
38 exclusive representative is no longer the representative of the

1 majority of employees in the bargaining unit.

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

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

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

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

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

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

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

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

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

29 **Sec. 11. Notwithstanding sections 6 through 10 of this chapter,**
 30 **an employer shall recognize a particular employee organization as**
 31 **the exclusive representative of the employees within an appropriate**
 32 **bargaining unit if the employee organization presents to the**
 33 **employer evidence that the employee organization represents a**
 34 **majority of the employees within the bargaining unit, unless an**
 35 **employee organization or a group of employees representing**
 36 **employees within the bargaining unit files a written objection to**
 37 **recognition with the employer or the board.**

38 **Sec. 12. If:**

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

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

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

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

23 **Sec. 14. In a case in which:**

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

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

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

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

1 the transcript of a proceeding under this section.

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

4 (1) deduct from the pay of the employee the dues, fees, or
5 assessments designated or certified by the appropriate officer
6 of an employee organization; and

7 (2) remit those amounts to the employee organization.

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

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

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

28 (1) Labor organization dues.

29 (2) Fair share payment.

30 (3) Initiation fees.

31 (4) Assessments.

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

35 (1) revoked in writing; or

36 (2) the termination date of the applicable collective bargaining
37 agreement.

38 **Sec. 21. A collective bargaining agreement providing for an**

1 employee who is not a member of the employee organization
 2 recognized as the exclusive representative to pay a proportionate
 3 share agreement must safeguard the right of nonassociation based
 4 upon bona fide religious tenets of an employee. An affected
 5 employee may be required to pay an amount equal to the
 6 employee's proportionate share, determined under a lawful
 7 proportionate share agreement, to a nonreligious charitable
 8 organization agreed upon by the employee and the exclusive
 9 representative to which the employee would otherwise pay the
 10 service fee.

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

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

18 (1) Interfere with, restrain, or coerce an employee in the
 19 exercise of the rights guaranteed in this chapter or IC 22-6.5-3
 20 through IC 22-6.5-5.

21 (2) Dominate, interfere, or assist in the formation or
 22 administration of an employee organization, or contribute
 23 financial or other support to an employee organization.

24 (3) Discriminate in regard to:

25 (A) hiring practices;

26 (B) tenure of employment; or

27 (C) a term or condition of employment;

28 to encourage or discourage membership in an employee
 29 organization.

30 (4) Discharge or otherwise discriminate against an employee
 31 because that employee has:

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

33 (B) given information or testimony under this chapter or
 34 IC 36-11-3.

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

37 (A) Wages.

38 (B) Rates of pay.

- 1 **(C) Hours.**
- 2 **(D) Working conditions.**
- 3 **(E) Any other terms or conditions of employment.**
- 4 **(6) Fail or refuse to comply with this chapter or IC 22-6.5-3**
- 5 **through IC 22-6.5-5.**

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

- 8 **(1) Interfere with, restrain, or coerce:**
 - 9 **(A) an employee in the exercise of the rights guaranteed in**
 - 10 **this chapter or IC 22-6.5-3 through IC 22-6.5-5; or**
 - 11 **(B) an employer in the selection of an exclusive**
 - 12 **representative for collective bargaining or the adjustment**
 - 13 **of grievances.**
- 14 **(2) Cause or attempt to cause an employer to discriminate**
- 15 **against an employee contrary to section 23 of this chapter.**
- 16 **(3) Refuse to bargain collectively in good faith with an**
- 17 **employer if the employee organization is the exclusive**
- 18 **representative.**
- 19 **(4) Engage in a strike.**
- 20 **(5) Fail to comply with this chapter or IC 22-6.5-3 through**
- 21 **IC 22-6.5-5.**

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

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

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

30 **Sec. 1. This chapter applies to all units.**

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

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

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

1 is served on the respondent.

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

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

12 (b) The respondent shall file an answer to the original or
13 amended complaint. The complainant and the respondent are
14 parties and are entitled to appear in person or otherwise give
15 testimony at the hearing. At the discretion of the board, an
16 interested person may be allowed to intervene in the hearing and
17 present testimony.

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

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

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

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

36 (1) did not engage in; or

37 (2) is not engaging in;

38 an unfair labor practice, the board shall state the findings of fact

1 and dismiss the complaint.

2 **Sec. 8. A hearing may be conducted by:**

3 (1) a member of the board; or

4 (2) a hearing examiner or an agency designated by the board;

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

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

10 (1) within twenty (20) days after service on the parties; or

11 (2) within a period authorized by the board;

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

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

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

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

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

28 (1) IC 22-6.5-2-6 through IC 22-6.5-2-15; or

29 (2) sections 1 through 11 of this chapter;

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

35 **Sec. 14. A party aggrieved by the board's order may petition the**
36 **court for a review of the order and for appropriate relief. If a**
37 **petition is not filed within the thirty (30) day period allowed by**
38 **section 13 of this chapter, the order may not be reviewed. The**

1 board shall then file a petition with the court to enforce the order.

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

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

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

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

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

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

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

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

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

1 **Sec. 21.** After the record of a hearing conducted under section
2 **8** of this chapter is filed with the court under section 20 of this
3 chapter, the jurisdiction of the court to modify, set aside, or
4 enforce a board's order and to grant other appropriate relief is
5 exclusive, and the court's judgment and decree are final, subject to
6 review in accordance with the rules of court.

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

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

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

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

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

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

23 (1) A right or benefit established by federal or state law.

24 (2) Employee rights described in this article.

25 (3) Employer rights described in this article.

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

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

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

37 **Sec. 7.** If the exclusive representative and the employer have not
38 agreed on a contract forty-five (45) days after collective bargaining

1 begins under section 6 of this chapter, either party may:

2 (1) notify the board of the inability to reach an agreement;

3 and

4 (2) ask the board for mediation to begin.

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

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

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

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

23 **Sec. 12.** Not later than seven (7) days after the request of either
24 party for arbitration is submitted to the board under section 10 of
25 this chapter, the board shall select from the permanent staff of fact
26 finders or panel of part time fact finders established under
27 IC 20-7.5-1-13 five (5) persons as nominees to serve as impartial
28 arbitrators on the arbitration panel. Not later than five (5) days
29 after the selection, the parties shall each alternately strike the
30 names of two (2) of the nominees, with the first person to request
31 arbitration under section 10 of this chapter striking first.

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

37 **Sec. 14.** The chairperson of the arbitration panel shall schedule
38 a hearing to begin not later than fifteen (15) days after the panel's

1 membership is selected and shall give reasonable notice of the date,
2 time, and place of the hearing to the parties. The hearing shall be
3 held at a location the board considers appropriate. The
4 chairperson shall preside over the hearing and take testimony.

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

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

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

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

25 (1) Administer oaths.

26 (2) Require the attendance of witnesses and the production of
27 evidence considered material to a just determination of an
28 issue in dispute.

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

31 Sec. 20. If:

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

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

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

38 Sec. 21. The failure to obey an order issued at the request of an

1 arbitration panel under section 20 of this chapter may be punished
2 by the court as contempt.

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

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

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

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

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

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

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

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

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

38 (1) The lawful authority of the employer.

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

Sec. 27. If a fiscal year begins:

- 25 **(1) after the initiation of arbitration procedures under this**
- 26 **chapter; and**
- 27 **(2) before the arbitration decision or enforcement of the**
- 28 **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.

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

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

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

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

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

21 **Sec. 33.** The court shall hear the evidence with respect to the
22 issues raised under section 32 of this chapter and may reverse the
23 order of the arbitration panel only if one of the grounds in section
24 32 is found.

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

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

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

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

1 **(1) adoption by ordinance if the unit is a county or**
2 **municipality; or**

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

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

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

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

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

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

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

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

38 **Sec. 44. Except as provided in sections 8 and 42 of this chapter,**

1 the cost of procedures under this chapter as determined by the
2 board shall be paid equally by the parties. The board shall
3 establish a complete procedure for the collection and payment of
4 the cost.

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

- 11 (1) the employer transacts business; or
- 12 (2) the employer's principal office is located.

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

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

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

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

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

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

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

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

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

36 Page 3, delete lines 23 through 42.

37 Delete pages 4 through 19.

38 Page 20, delete lines 1 through 36.

- 1 Renumber all SECTIONS consecutively.
 (Reference is to HB 1220 as introduced.)

and when so amended that said bill do pass.

Representative Liggett