

HOUSE BILL No. 1368

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-26; IC 20-28-9; IC 20-29-6-9.5.

Synopsis: School employee contracts. Provides that a certificated employee who is not a member of the exclusive representative (union) may enter into an employment contract with a school corporation that contains terms that differ from the terms set forth in the collective bargaining agreement. Provides that it is not an unfair labor practice for a school corporation to enter into the employment contract. Provides that certain provisions that apply or do not apply to certificated employees subject to collective bargaining agreements also apply or do not apply to certificated employees that enter into such employment contracts.

Effective: July 1, 2021.

Wesco, Goodrich

January 14, 2021, read first time and referred to Committee on Education.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1368

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

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

- 1 SECTION 1. IC 20-26-5-4.7, AS ADDED BY P.L.148-2012,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2021]: Sec. 4.7. (a) This section does not apply to a:
- 4 (1) superintendent of a school corporation; or
- 5 (2) certificated employee (as defined in IC 20-29-2-4) that:
- 6 (A) is represented by an exclusive representative (as defined
- 7 in IC 20-29-2-9) under IC 20-29; or
- 8 (B) entered into an employment contract under
- 9 IC 20-29-6-9.5.
- 10 (b) The superintendent shall post the provisions of an employment
- 11 contract that the school corporation enters into with a certificated
- 12 employee on the school corporation's Internet web site.
- 13 SECTION 2. IC 20-26-17-5, AS AMENDED BY P.L.143-2016,
- 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2021]: Sec. 5. (a) The following apply with respect to a school
- 16 corporation's employee health coverage program:
- 17 (1) If the school corporation pays a commission, a bonus, an



1 override, a contingency fee, or any other compensation to an
 2 insurance producer or other adviser in connection with the health
 3 coverage, the school corporation shall:

4 (A) specify the commission, bonus, override, contingency fee,
 5 or other compensation in the school corporation's annual
 6 budget fixed under IC 6-1.1-17; and

7 (B) make the information specified under clause (A) available
 8 to the public upon request.

9 (2) The school corporation may allow:

10 (A) members of the school corporation's governing body; or

11 (B) an attorney of the school corporation's governing body;
 12 to be covered under the school corporation's employee health
 13 coverage program.

14 (3) Except as provided in subsection (b), all individuals insured
 15 under the school corporation's employee health coverage
 16 program:

17 (A) are eligible for the same coverage as all other individuals
 18 insured under the program; and

19 (B) to the extent allowed by federal law, may pay different
 20 amounts for the coverage.

21 (b) Except as provided in IC 5-10-8-6.7(b), a school corporation:

22 (1) may:

23 (A) make an assignment of wages upon the request of a school
 24 corporation employee in accordance with IC 22-2-6-2 to pay
 25 the school corporation employee's share of premiums for
 26 health insurance that is available to the school corporation
 27 employee as a result of:

28 (i) a collective bargaining agreement

29 (i) negotiated with the school corporation by a labor
 30 organization and

31 (ii) under which the school corporation employee is covered;

32 **or**

33 **(ii) an employment contract entered into under**
 34 **IC 20-29-6-9.5; and**

35 (B) pay the school corporation's share of premiums for the
 36 **bargained agreed upon** health insurance; and

37 (2) is not required to make the **bargained agreed upon** health
 38 insurance available to all school corporation employees.

39 SECTION 3. IC 20-28-9-1.5, AS AMENDED BY P.L.211-2019,
 40 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2021]: Sec. 1.5. (a) This subsection governs salary increases
 42 for a teacher employed by a school corporation. Compensation



1 attributable to additional degrees or graduate credits earned before the
 2 effective date of a local compensation plan created under this chapter
 3 before July 1, 2015, shall continue for school years beginning after
 4 June 30, 2015. Compensation attributable to additional degrees for
 5 which a teacher has started course work before July 1, 2011, and
 6 completed course work before September 2, 2014, shall also continue
 7 for school years beginning after June 30, 2015. For school years
 8 beginning after June 30, 2015, a school corporation may provide a
 9 supplemental payment to a teacher in excess of the salary specified in
 10 the school corporation's compensation plan under any of the following
 11 circumstances:

12 (1) The teacher:

13 (A) teaches an advanced placement course or a Cambridge
 14 International course; or

15 (B) has earned a master's degree from an accredited
 16 postsecondary educational institution in a content area directly
 17 related to the subject matter of:

18 (i) a dual credit course; or

19 (ii) another course;

20 taught by the teacher.

21 (2) Beginning after June 30, 2018, the teacher:

22 (A) is a special education professional; or

23 (B) teaches in the areas of science, technology, engineering, or
 24 mathematics.

25 (3) Beginning after June 30, 2019, the teacher teaches a career or
 26 technical education course.

27 In addition, a supplemental payment may be made to an elementary
 28 school teacher who earns a master's degree in math, reading, or
 29 literacy. A supplement provided under this subsection is not subject to
 30 collective bargaining, but a discussion of the supplement must be held.
 31 Such a supplement is in addition to any increase permitted under
 32 subsection (b).

33 (b) Increases or increments in a local salary range must be based
 34 upon a combination of the following factors:

35 (1) A combination of the following factors taken together may
 36 account for not more than fifty percent (50%) of the calculation
 37 used to determine a teacher's increase or increment:

38 (A) The number of years of a teacher's experience.

39 (B) The possession of either:

40 (i) additional content area degrees beyond the requirements
 41 for employment; or

42 (ii) additional content area degrees and credit hours beyond



- 1 the requirements for employment, if required under an
 2 agreement bargained under IC 20-29 **or an employment**
 3 **contract entered into under IC 20-29-6-9.5.**
- 4 (2) The results of an evaluation conducted under IC 20-28-11.5.
 5 (3) The assignment of instructional leadership roles, including the
 6 responsibility for conducting evaluations under IC 20-28-11.5.
 7 (4) The academic needs of students in the school corporation.
- 8 (c) To provide greater flexibility and options, a school corporation
 9 may differentiate the amount of salary increases or increments
 10 determined for teachers under subsection (b)(4). A school corporation
 11 shall base a differentiated amount under this subsection on any
 12 academic needs the school corporation determines are appropriate,
 13 which may include the:
- 14 (1) subject or subjects, including the subjects described in
 15 subsection (a)(2), taught by a given teacher;
 16 (2) importance of retaining a given teacher at the school
 17 corporation; and
 18 (3) need to attract an individual with specific qualifications to fill
 19 a teaching vacancy.
- 20 (d) A school corporation may provide differentiated increases or
 21 increments under subsection (b), and in excess of the percentage
 22 specified in subsection (b)(1), in order to:
- 23 (1) reduce the gap between the school corporation's minimum
 24 teacher salary and the average of the school corporation's
 25 minimum and maximum teacher salaries; or
 26 (2) allow teachers currently employed by the school corporation
 27 to receive a salary adjusted in comparison to starting base salaries
 28 of new teachers.
- 29 (e) Except as provided in subsection (f), a teacher rated ineffective
 30 or improvement necessary under IC 20-28-11.5 may not receive any
 31 raise or increment for the following year if the teacher's employment
 32 contract is continued. The amount that would otherwise have been
 33 allocated for the salary increase of teachers rated ineffective or
 34 improvement necessary shall be allocated for compensation of all
 35 teachers rated effective and highly effective based on the criteria in
 36 subsection (b).
- 37 (f) Subsection (e) does not apply to a teacher in the first two (2) full
 38 school years that the teacher provides instruction to students in
 39 elementary school or high school. If a teacher provides instruction to
 40 students in elementary school or high school in another state, any full
 41 school year, or its equivalent in the other state, that the teacher provides
 42 instruction counts toward the two (2) full school years under this



1 subsection.

2 (g) A teacher who does not receive a raise or increment under
3 subsection (e) may file a request with the superintendent or
4 superintendent's designee not later than five (5) days after receiving
5 notice that the teacher received a rating of ineffective. The teacher is
6 entitled to a private conference with the superintendent or
7 superintendent's designee.

8 (h) The Indiana education employment relations board established
9 in IC 20-29-3-1 shall publish a model compensation plan with a model
10 salary range that a school corporation may adopt.

11 (i) Each school corporation shall submit its local compensation plan
12 to the Indiana education employment relations board. For a school year
13 beginning after June 30, 2015, a local compensation plan must specify
14 the range for teacher salaries. The Indiana education employment
15 relations board shall publish the local compensation plans on the
16 Indiana education employment relations board's Internet web site.

17 (j) The Indiana education employment relations board shall review
18 a compensation plan for compliance with this section as part of its
19 review under IC 20-29-6-6.1. The Indiana education employment
20 relations board has jurisdiction to determine compliance of a
21 compensation plan submitted under this section.

22 (k) This chapter may not be construed to require or allow a school
23 corporation to decrease the salary of any teacher below the salary the
24 teacher was earning on or before July 1, 2015, if that decrease would
25 be made solely to conform to the new compensation plan.

26 (l) After June 30, 2011, all rights, duties, or obligations established
27 under IC 20-28-9-1 before its repeal are considered rights, duties, or
28 obligations under this section.

29 SECTION 4. IC 20-28-9-11, AS ADDED BY P.L.1-2005,
30 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2021]: Sec. 11. Absences that are not described in sections 9
32 through 10 of this chapter may be taken with pay when agreed on by
33 the school employer and:

- 34 (1) the exclusive representative under IC 20-29; or
35 (2) a **certificated employee (as defined in IC 20-29-2-4) in an**
36 **employment contract entered into under IC 20-29-6-9.5.**

37 SECTION 5. IC 20-29-6-9.5 IS ADDED TO THE INDIANA CODE
38 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2021]: **Sec. 9.5. (a) The obligation to bargain collectively does not**
40 **prevent a school employer from entering into an employment**
41 **contract with a certificated employee who is not a member of the**
42 **exclusive representative that contains terms that differ from the**



1 terms set forth in the collective bargaining agreement.
2 (b) It is not an unfair practice for a school employer to enter
3 into an employment contract under this section.

