

SENATE BILL No. 62

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-1.5-6.1; IC 20-28-6-2; IC 20-29.

Synopsis: Discussions with exclusive representative. Requires a school employer to discuss certain items with the exclusive representative of certificated employees. Provides that the obligation to discuss does not require either party to enter into a contract, agree to a proposal, or make a concession related to the discussable items. Makes it an unfair practice for a school employer to refuse to discuss the items with an exclusive representative. Removes language that excludes a discussion or meeting to discuss items between a school employer and an exclusive representative from the provision that establishes instances in which executive sessions may be held.

Effective: July 1, 2024.

Ford J.D.

January 8, 2024, read first time and referred to Committee on Education and Career Development.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

SENATE BILL No. 62

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 5-14-1.5-6.1, AS AMENDED BY P.L.200-2023,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 6.1. (a) As used in this section, "public official"
4 means a person:
5 (1) who is a member of a governing body of a public agency; or
6 (2) whose tenure and compensation are fixed by law and who
7 executes an oath.
8 (b) Executive sessions may be held only in the following instances:
9 (1) Where authorized by federal or state statute.
10 (2) For discussion of strategy with respect to any of the following:
11 (A) Collective bargaining, ~~which does not include a discussion~~
12 ~~or meeting under IC 20-29-6-7.~~
13 (B) Initiation of litigation or litigation that is either pending or
14 has been threatened specifically in writing. As used in this
15 clause, "litigation" includes any judicial action or
16 administrative law proceeding under federal or state law.
17 (C) The implementation of security systems.



- 1 (D) A real property transaction including:
 2 (i) a purchase;
 3 (ii) a lease as lessor;
 4 (iii) a lease as lessee;
 5 (iv) a transfer;
 6 (v) an exchange; or
 7 (vi) a sale;
 8 by the governing body up to the time a contract or option is
 9 executed by the parties. This clause does not affect a political
 10 subdivision's duty to comply with any other statute that
 11 governs the conduct of the real property transaction, including
 12 IC 36-1-10 or IC 36-1-11.
 13 (E) School consolidation.
 14 However, all such strategy discussions must be necessary for
 15 competitive or bargaining reasons and may not include
 16 competitive or bargaining adversaries.
 17 (3) For discussion of the assessment, design, and implementation
 18 of school safety and security measures, plans, and systems.
 19 (4) Interviews and negotiations with industrial or commercial
 20 prospects or agents of industrial or commercial prospects by:
 21 (A) the Indiana economic development corporation;
 22 (B) the office of tourism development (before July 1, 2020) or
 23 the Indiana destination development corporation (after June
 24 30, 2020);
 25 (C) the Indiana finance authority;
 26 (D) the ports of Indiana;
 27 (E) an economic development commission;
 28 (F) the Indiana state department of agriculture;
 29 (G) the Indiana White River state park development
 30 commission;
 31 (H) a local economic development organization that is a
 32 nonprofit corporation established under state law whose
 33 primary purpose is the promotion of industrial or business
 34 development in Indiana, the retention or expansion of Indiana
 35 businesses, or the development of entrepreneurial activities in
 36 Indiana; or
 37 (I) a governing body of a political subdivision.
 38 However, this subdivision does not apply to any discussions
 39 regarding research that is prohibited under IC 16-34.5-1-2 or
 40 under any other law.
 41 (5) To receive information about and interview prospective
 42 employees.



- 1 (6) With respect to any individual over whom the governing body
 2 has jurisdiction:
 3 (A) to receive information concerning the individual's alleged
 4 misconduct; and
 5 (B) to discuss, before a determination, the individual's status
 6 as an employee, a student, or an independent contractor who
 7 is:
 8 (i) a physician; or
 9 (ii) a school bus driver.
- 10 (7) For discussion of records classified as confidential by state or
 11 federal statute.
- 12 (8) To discuss before a placement decision an individual student's
 13 abilities, past performance, behavior, and needs.
- 14 (9) To discuss a job performance evaluation of individual
 15 employees. This subdivision does not apply to a discussion of the
 16 salary, compensation, or benefits of employees during a budget
 17 process.
- 18 (10) When considering the appointment of a public official, to do
 19 the following:
 20 (A) Develop a list of prospective appointees.
 21 (B) Consider applications.
 22 (C) Make one (1) initial exclusion of prospective appointees
 23 from further consideration.
- 24 Notwithstanding IC 5-14-3-4(b)(12), a governing body may
 25 release and shall make available for inspection and copying in
 26 accordance with IC 5-14-3-3 identifying information concerning
 27 prospective appointees not initially excluded from further
 28 consideration. An initial exclusion of prospective appointees from
 29 further consideration may not reduce the number of prospective
 30 appointees to fewer than three (3) unless there are fewer than
 31 three (3) prospective appointees. Interviews of prospective
 32 appointees must be conducted at a meeting that is open to the
 33 public.
- 34 (11) To train school board members with an outside consultant
 35 about the performance of the role of the members as public
 36 officials.
- 37 (12) To prepare or score examinations used in issuing licenses,
 38 certificates, permits, or registrations under IC 25.
- 39 (13) To discuss information and intelligence intended to prevent,
 40 mitigate, or respond to the threat of terrorism.
- 41 (14) To train members of a board of aviation commissioners
 42 appointed under IC 8-22-2 or members of an airport authority



1 board appointed under IC 8-22-3 with an outside consultant about
 2 the performance of the role of the members as public officials. A
 3 board may hold not more than one (1) executive session per
 4 calendar year under this subdivision.

5 (15) For discussion by the governing body of a state educational
 6 institution of:

7 (A) the assessment of; or

8 (B) negotiation with another entity concerning;

9 the establishment of a collaborative relationship or venture to
 10 advance the research, engagement, or education mission of the
 11 state educational institution. However, this subdivision does not
 12 apply to any discussions regarding research that is prohibited
 13 under IC 16-34.5-1-2 or under any other law.

14 (c) A final action must be taken at a meeting open to the public.

15 (d) Public notice of executive sessions must state the subject matter
 16 by specific reference to the enumerated instance or instances for which
 17 executive sessions may be held under subsection (b). The requirements
 18 stated in section 4 of this chapter for memoranda and minutes being
 19 made available to the public is modified as to executive sessions in that
 20 the memoranda and minutes must identify the subject matter
 21 considered by specific reference to the enumerated instance or
 22 instances for which public notice was given. The governing body shall
 23 certify by a statement in the memoranda and minutes of the governing
 24 body that no subject matter was discussed in the executive session
 25 other than the subject matter specified in the public notice.

26 (e) A governing body may not conduct an executive session during
 27 a meeting, except as otherwise permitted by applicable statute. A
 28 meeting may not be recessed and reconvened with the intent of
 29 circumventing this subsection.

30 SECTION 2. IC 20-28-6-2, AS AMENDED BY P.L.200-2023,
 31 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2024]: Sec. 2. (a) Except as provided under section 7.3 of this
 33 chapter, a contract entered into by a teacher and a school corporation
 34 must:

35 (1) be in writing;

36 (2) be signed by both parties; and

37 (3) contain the:

38 (A) beginning date of the school term as determined annually
 39 by the school corporation;

40 (B) number of days in the school term as determined annually
 41 by the school corporation;

42 (C) total salary to be paid to the teacher during the school year;



- 1 (D) number of salary payments to be made to the teacher
 2 during the school year; and
 3 (E) number of hours per day the teacher is expected to work as
 4 **discussed pursuant to IC 20-29-6-7.**
 5 (b) The contract may provide for the annual determination of the
 6 teacher's annual compensation based on a local compensation plan
 7 specifying a salary range, which is part of the contract. The
 8 compensation plan may be changed by the school corporation before
 9 the later of May 1 of a year, with the changes effective the next school
 10 year, or the date specified in a collective bargaining agreement
 11 applicable to the next school year. A teacher affected by the changes
 12 shall be furnished with printed copies of the changed compensation
 13 plan not later than thirty (30) days after the adoption of the
 14 compensation plan.
 15 (c) A contract under this section is also governed by the following
 16 statutes:
 17 (1) IC 20-28-9-5 through IC 20-28-9-6.
 18 (2) IC 20-28-9-9 through IC 20-28-9-11.
 19 (3) IC 20-28-9-13.
 20 (4) IC 20-28-9-14.
 21 (d) A governing body shall provide the blank contract forms,
 22 carefully worded by the secretary of education, and have them signed.
 23 The contracts are public records open to inspection by the residents of
 24 each school corporation.
 25 (e) An action may be brought on a contract that conforms with
 26 subsections (a)(1), (a)(2), and (d).
 27 SECTION 3. IC 20-29-2-7.1 IS ADDED TO THE INDIANA CODE
 28 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 29 **1, 2024]: Sec. 7.1. "Discuss" means the performance of the mutual**
 30 **obligation of the school corporation through its superintendent and**
 31 **the exclusive representative to meet at reasonable times to:**
 32 **(1) discuss;**
 33 **(2) provide meaningful input; or**
 34 **(3) exchange points of view;**
 35 **with respect to items enumerated in IC 20-29-6-7.**
 36 SECTION 4. IC 20-29-6-1, AS AMENDED BY P.L.200-2023,
 37 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2024]: Sec. 1. (a) School employers and school employees
 39 shall:
 40 (1) have the obligation and the right to bargain collectively the
 41 items set forth in section 4 of this chapter; ~~and~~
 42 **(2) have the right and obligation to discuss any item set forth**



1 **in section 7 of this chapter; and**

2 ~~(2)~~ **(3)** enter into a contract embodying any of the matters listed
3 in section 4 of this chapter on which they have bargained
4 collectively.

5 (b) Notwithstanding any other law, before a school employer and
6 school employees may privately negotiate the matters described in
7 subsection (a)(1) during the time period for formal collective
8 bargaining established in section 12 of this chapter, the parties must
9 hold at least one (1) public hearing and take public testimony to discuss
10 the items described in subsection (a). A school employer may allow
11 governing body members or the public to participate in a public
12 hearing under this subsection by means of electronic communication.

13 SECTION 5. IC 20-29-6-7, AS AMENDED BY P.L.200-2023,
14 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2024]: Sec. 7. ~~(a)~~ A school employer ~~may~~ **shall** discuss

16 ~~(1)~~ with a certificated employee or group of certificated
17 employees; or

18 ~~(2)~~ at one ~~(1)~~ or more meetings that are open to all certificated
19 employees;

20 any topic that significantly impacts a certificated employee's working
21 conditions or impacts the educational quality of the school employer's
22 students.

23 ~~(b)~~ A discussion or meeting under subsection (a) is not subject to
24 the open door law (~~IC 5-14-1.5~~): **with the exclusive representative of**
25 **certificated employees the following items:**

26 **(1) Pupil/teacher ratio.**

27 **(2) Class size.**

28 **(3) Hours and preparation time.**

29 **(4) Selection of curricular materials.**

30 **(5) Student supports.**

31 **(6) Instructional methods.**

32 SECTION 6. IC 20-29-6-7.5 IS ADDED TO THE INDIANA CODE
33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
34 1, 2024]: Sec. 7.5. **(a) The obligation to discuss does not require**
35 **either party to enter into a contract, agree to a proposal, or make**
36 **a concession related to the items listed in section 7 of this chapter.**

37 **(b) A failure to reach an agreement on a matter of discussion**
38 **does not allow the use of any part of the impasse procedure under**
39 **IC 20-29-8.**

40 SECTION 7. IC 20-29-6-9, AS AMENDED BY P.L.200-2023,
41 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2024]: Sec. 9. The obligation to bargain collectively or



- 1 **discuss** a matter does not prevent:
- 2 (1) a school employee from petitioning the school employer,
- 3 governing body, or superintendent for a redress of the employee's
- 4 grievances, either individually or through the exclusive
- 5 representative; or
- 6 (2) the school employer or superintendent from conferring with
- 7 a citizen, taxpayer, student, school employee, or other person
- 8 considering the operation of the schools and the school
- 9 corporation.
- 10 SECTION 8. IC 20-29-7-1, AS AMENDED BY P.L.200-2023,
- 11 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2024]: Sec. 1. (a) It is an unfair practice for a school employer
- 13 to do any of the following:
- 14 (1) Interfere with, restrain, or coerce school employees in the
- 15 exercise of the rights guaranteed in IC 20-29-4.
- 16 (2) Dominate, interfere, or assist in the formation or
- 17 administration of any school employee organization or contribute
- 18 financial or other support to the organization. Subject to rules
- 19 adopted by the governing body, a school employer may permit
- 20 school employees to confer with the school employer or with any
- 21 school employee organization during working hours without loss
- 22 of time or pay.
- 23 (3) Encourage or discourage membership in any school employee
- 24 organization through discrimination in regard to:
- 25 (A) hiring;
- 26 (B) tenure of employment; or
- 27 (C) any term or condition of employment.
- 28 (4) Discharge or otherwise discriminate against a school
- 29 employee because the employee has filed a complaint, affidavit,
- 30 petition, or any information or testimony under this article.
- 31 (5) Refuse to:
- 32 (A) bargain collectively; **or**
- 33 (B) **discuss**;
- 34 with an exclusive representative as required by this article.
- 35 (6) Fail or refuse to comply with any provision of this article.
- 36 (b) If:
- 37 (1) a complaint is filed that alleges an unfair practice has occurred
- 38 with respect to a subject that may be discussed under this article;
- 39 and
- 40 (2) the complaint is found to be frivolous;
- 41 the party that filed that complaint is liable for costs and attorney's fees.

