

SENATE BILL No. 407

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-28-11.5; IC 20-29-5.

Synopsis: Education matters. Requires, before April 1, 2018, the department of education to develop, and the state board of education to approve, a method for measuring individualized student growth throughout the school year using a benchmark assessment to be used to evaluate a certificated employee as part of the school corporation's staff performance evaluation plan. Requires that a school corporation's staff performance evaluation plan must be based upon, in part, student growth during the school year. Provides that a school employer shall submit a copy of the affidavit submitted by the exclusive representative indicating the number of teachers who are members of the exclusive representative to the Indiana education employment relations board (board). Requires the board to post a copy of the affidavit on the board's Internet web site. Requires the board to post on its Internet web site training modules, videos, or other instructional material informing school employees of their rights to select an exclusive representative. Provides that each school year in which school employee participation in a school employee organization currently serving as the exclusive representative of the bargaining unit does not represent a majority of the school employees within the unit, the board shall notify the school employees of the bargaining unit of their right to: (1) representation; and (2) the ability to change their exclusive representative. Urges the legislative council to establish the Every Student Succeeds Act (ESSA) education innovation interim study committee.

Effective: Upon passage; July 1, 2017.

Houchin

January 10, 2017, read first time and referred to Committee on Education and Career Development.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 407

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 20-28-11.5-4, AS AMENDED BY P.L.239-2015,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 4. (a) Each school corporation shall develop
4 a plan for annual performance evaluations for each certificated
5 employee. A school corporation shall implement the plan beginning
6 with the 2012-2013 school year.
7 (b) **Subject to subsection (c)**, instead of developing its own staff
8 performance evaluation plan under subsection (a), a school corporation
9 may adopt a staff performance evaluation plan that meets the
10 requirements set forth in this chapter or any of the following models:
11 (1) A plan using master teachers or contracting with an outside
12 vendor to provide master teachers.
13 (2) The System for Teacher and Student Advancement (TAP).
14 (3) The Peer Assistance and Review Teacher Evaluation System
15 (PAR).
16 (c) A plan must include the following components:
17 (1) Performance evaluations for all certificated employees,



1 conducted at least annually.

2 (2) Objective measures of student achievement and growth to
3 significantly inform the evaluation. The objective measures must
4 include:

5 (A) **for school years ending before July 1, 2018**, student
6 assessment results from statewide assessments for certificated
7 employees whose responsibilities include instruction in
8 subjects measured in statewide assessments;

9 **(B) for school years beginning after June 30, 2018, a**
10 **method for assessing individualized student growth using**
11 **a benchmark assessment during a particular school year in**
12 **a manner prescribed by the department under section 10**
13 **of this chapter for certificated employees whose**
14 **responsibilities include instruction of a student;**

15 ~~(B)~~ (C) methods for assessing student growth for certificated
16 employees who do not teach in areas measured by statewide
17 assessments; and

18 ~~(C)~~ (D) student assessment results from locally developed
19 assessments and other test measures for certificated employees
20 whose responsibilities may or may not include instruction in
21 subjects and areas measured by statewide assessments.

22 (3) Rigorous measures of effectiveness, including observations
23 and other performance indicators.

24 (4) An annual designation of each certificated employee in one
25 (1) of the following rating categories:

26 (A) Highly effective.

27 (B) Effective.

28 (C) Improvement necessary.

29 (D) Ineffective.

30 (5) An explanation of the evaluator's recommendations for
31 improvement, and the time in which improvement is expected.

32 (6) A provision that a teacher who negatively affects student
33 achievement and growth cannot receive a rating of highly
34 effective or effective.

35 (7) For annual performance evaluations for school years
36 beginning after June 30, 2015, provide for a pre-evaluation
37 planning session conducted by the superintendent or equivalent
38 authority for the school corporation with the principals in the
39 school corporation.

40 (d) In developing a performance evaluation model, a school
41 corporation may consider the following:

42 (1) Test scores of students (both formative and summative).



- 1 (2) Classroom presentation observations.
- 2 (3) Observation of student-teacher interaction.
- 3 (4) Knowledge of subject matter.
- 4 (5) Dedication and effectiveness of the teacher through time and
- 5 effort on task.
- 6 (6) Contributions of teachers through group teacher interactivity
- 7 in fulfilling the school improvement plan.
- 8 (7) Cooperation of the teacher with supervisors and peers.
- 9 (8) Extracurricular contributions of the teacher.
- 10 (9) Outside performance evaluations.
- 11 (10) Compliance with school corporation rules and procedures.
- 12 (11) Other items considered important by the school corporation
- 13 in developing each student to the student's maximum intellectual
- 14 potential and performance.

15 The state board and the department may recommend additional factors,
16 but may not require additional factors unless directed to do so by the
17 general assembly.

18 (e) This subsection applies to plans applicable to annual
19 performance evaluations for school years beginning after June 30,
20 2015. The plan must:

- 21 (1) be in writing; and
 - 22 (2) be explained to the governing body in a public meeting;
- 23 before the evaluations are conducted. Before explaining the plan to the
24 governing body, the superintendent of the school corporation shall
25 discuss the plan with teachers or the teachers' representative, if there
26 is one. This discussion is not subject to the open door law
27 (IC 5-14-1.5). The plan is not subject to bargaining, but a discussion of
28 the plan must be held.

29 (f) The evaluator shall discuss the evaluation with the certificated
30 employee.

31 SECTION 2. IC 20-28-11.5-8, AS AMENDED BY P.L.160-2012,
32 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: Sec. 8. (a) To implement this chapter, the state
34 board shall do the following:

- 35 (1) **Before January 31, 2012, Subject to section 10 of this**
36 **chapter**, adopt rules under IC 4-22-2 that establish:
 - 37 (A) the criteria that define each of the four categories of
 - 38 teacher ratings under section 4(c)(4) of this chapter;
 - 39 (B) the measures to be used to determine student academic
 - 40 achievement and growth under section 4(c)(2) of this chapter;
 - 41 (C) standards that define actions that constitute a negative
 - 42 impact on student achievement; and



- 1 (D) an acceptable standard for training evaluators.
- 2 (2) ~~Before January 31, 2012,~~ Work with the department to
- 3 develop a model plan and release it to school corporations.
- 4 Subsequent versions of the model plan that contain substantive
- 5 changes must be provided to school corporations.
- 6 (3) Work with the department to ensure the availability of
- 7 ongoing training on the use of the performance evaluation to
- 8 ensure that all evaluators and certificated employees have access
- 9 to information on the plan, the plan's implementation, and this
- 10 chapter.
- 11 (b) A school corporation may adopt the department's model plan, or
- 12 any other model plan approved by the department, without the state
- 13 board's approval.
- 14 (c) A school corporation may substantially modify the model plan
- 15 or develop the school corporation's own plan, if the substantially
- 16 modified or developed plan meets the criteria established under this
- 17 chapter. If a school corporation substantially modifies the model plan
- 18 or develops its own plan, the department may request that the school
- 19 corporation submit the plan to the department to ensure the plan meets
- 20 the criteria developed under this chapter. If the department makes such
- 21 a request, before submitting a substantially modified or new staff
- 22 performance evaluation plan to the department, the governing body
- 23 shall submit the staff performance evaluation plan to the teachers
- 24 employed by the school corporation for a vote. If at least seventy-five
- 25 percent (75%) of the voting teachers vote in favor of adopting the staff
- 26 performance evaluation plan, the governing body may submit the staff
- 27 performance evaluation plan to the department.
- 28 (d) Each school corporation shall submit its staff performance
- 29 evaluation plan to the department. The department shall publish the
- 30 staff performance evaluation plans on the department's Internet web
- 31 site. A school corporation must submit its staff performance evaluation
- 32 plan to the department for approval in order to qualify for any grant
- 33 funding related to this chapter.
- 34 SECTION 3. IC 20-28-11.5-10 IS ADDED TO THE INDIANA
- 35 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 36 **[EFFECTIVE UPON PASSAGE]: Sec. 10. Before April 1, 2018, the**
- 37 **department shall develop, and the state board shall approve, a**
- 38 **method for measuring individualized student growth throughout**
- 39 **the school year using benchmark assessments to be used as part of**
- 40 **the school corporation's staff performance evaluation plan under**
- 41 **section 4 of this chapter.**
- 42 SECTION 4. IC 20-29-5-7, AS ADDED BY P.L.48-2011,



1 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2017]: Sec. 7. (a) This section does not apply to the
3 bargaining team for the exclusive representative.

4 (b) The percentage of teacher positions the exclusive representative
5 may appoint to serve on a statutory or locally created district wide
6 committee may not exceed the percentage of teachers in the school
7 corporation who are members of the exclusive representative. If
8 multiplying the number of teacher positions on the committee by the
9 percentage of teachers in the school corporation who are members of
10 the exclusive representative does not produce a whole number, the
11 product must be rounded up to the nearest whole number. The
12 percentage of positions applies to the number of teacher positions on
13 a committee and not to the total number of positions on a committee.

14 (c) The percentage of teacher positions the exclusive representative
15 may appoint to serve on a statutory or locally created school wide
16 committee may not exceed the percentage of teachers in the school who
17 are members of the exclusive representative. If multiplying the number
18 of teacher positions on the committee by the percentage of teachers in
19 the school who are members of the exclusive representative does not
20 produce a whole number, the product must be rounded up to the nearest
21 whole number. The percentage of positions applies to the number of
22 teacher positions on a committee and not to the total number of
23 positions on a committee.

24 (d) A committee to which this section applies may not address
25 subjects of bargaining under this article. A school employer's
26 appointment of a teacher to a committee is not an unfair practice as it
27 relates to the appointment of the teacher committee members.

28 (e) By September 15 of each school year, the local president or other
29 officer or designee of the exclusive representative shall certify by
30 affidavit to the school employer the number of teachers in each school
31 and in the entire school corporation who are members of the exclusive
32 representative.

33 **(f) By October 1 of each school year, the school employer shall**
34 **provide the board with a copy of the affidavit submitted to the**
35 **school board under subsection (e). The board shall post a copy of**
36 **the affidavit on the board's Internet web site.**

37 SECTION 5. IC 20-29-5-8 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2017]: **Sec. 8. (a) The board shall develop and maintain training**
40 **modules, videos, or other instructional material on the board's**
41 **Internet web site to instruct school employees of their rights under**
42 **this chapter.**



1 **(b) Each school year in which school employee participation in**
 2 **a school employee organization currently serving as the exclusive**
 3 **representative of the bargaining unit does not represent a majority**
 4 **of the school employees within the unit, the board shall notify, in**
 5 **a manner prescribed by the board, the school employees of the**
 6 **bargaining unit of their right to:**

7 **(1) representation under this chapter; and**

8 **(2) the ability to change their exclusive representative under**
 9 **section 3 of this chapter.**

10 **SECTION 6. [EFFECTIVE UPON PASSAGE] (a) The general**
 11 **assembly urges the legislative council to establish the Every**
 12 **Student Succeeds Act (ESSA) education innovation interim study**
 13 **committee under IC 2-5-1.3-14 to study the following:**

14 **(1) Opportunities to establish innovative education policy**
 15 **based on changes in federal law under the Every Student**
 16 **Succeeds Act (ESSA) (P.L. 114-95).**

17 **(2) Necessary changes to Indiana law based upon changes**
 18 **made to federal law under ESSA.**

19 **(3) Opportunities to maximize flexibility for school**
 20 **corporations, charter schools, and accredited nonpublic**
 21 **schools based on changes made in federal law.**

22 **(4) How to improve teacher preparation programs and better**
 23 **prepare future educators for the classroom.**

24 **(5) The department of education's plan to implement and**
 25 **comply with ESSA.**

26 **(b) This SECTION expires December 31, 2017.**

27 **SECTION 7. An emergency is declared for this act.**

