

SENATE BILL No. 638

DIGEST OF INTRODUCED BILL

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

Synopsis: Collective bargaining matters. Provides that increases or increments in a local teacher salary range are not required to be equal for all teachers even if the salary increases or increments are based on the same combination of weighted factors. Provides that teacher working hours are subject to collective bargaining. Provides that an employer is required to discuss: (1) working conditions; and (2) student learning; with the exclusive representative of certificated employees. Removes teacher evaluations from the list of items that are required to be considered to determine teacher salary increases or increments. Makes changes to the term "deficit financing" for purposes of determining the amount of money that is available for teacher contracts. Provides that ILEARN program test scores from the ILEARN program tests taken in the spring of 2019 or 2020 may not be used by a school corporation as part of an annual performance evaluation of a particular certificated employee. Resolves conflict between P.L.213-2018(ss), SECTION 24 and P.L.213-2018(ss), SECTION 25.

Effective: July 1, 2018 (retroactive); January 1, 2019 (retroactive); July 1, 2019.

Melton

January 15, 2019, read first time and referred to Committee on Education and Career Development.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 638

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 20-28-6-2, AS AMENDED BY P.L.118-2016,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 2. (a) A contract entered into by a teacher and a
4 school corporation must:
5 (1) be in writing;
6 (2) be signed by both parties; and
7 (3) contain the:
8 (A) beginning date of the school term as determined annually
9 by the school corporation;
10 (B) number of days in the school term as determined annually
11 by the school corporation;
12 (C) total salary to be paid to the teacher during the school year;
13 (D) number of salary payments to be made to the teacher
14 during the school year; and
15 (E) number of hours per day the teacher is expected to work,
16 as ~~discussed pursuant to IC 20-29-6-7.~~ **bargained under**
17 **IC 20-29-6-4.**



1 (b) The contract may provide for the annual determination of the
 2 teacher's annual compensation based on a local compensation plan
 3 specifying a salary range, which is part of the contract. The
 4 compensation plan may be changed by the school corporation before
 5 the later of May 1 of a year, with the changes effective the next school
 6 year, or the date specified in a collective bargaining agreement
 7 applicable to the next school year. A teacher affected by the changes
 8 shall be furnished with printed copies of the changed compensation
 9 plan not later than thirty (30) days after the adoption of the
 10 compensation plan.

11 (c) A contract under this section is also governed by the following
 12 statutes:

- 13 (1) IC 20-28-9-5 through IC 20-28-9-6.
- 14 (2) IC 20-28-9-9 through IC 20-28-9-11.
- 15 (3) IC 20-28-9-13.
- 16 (4) IC 20-28-9-14.

17 (d) A governing body shall provide the blank contract forms,
 18 carefully worded by the state superintendent, and have them signed.
 19 The contracts are public records open to inspection by the residents of
 20 each school corporation.

21 (e) An action may be brought on a contract that conforms with
 22 subsections (a)(1), (a)(2), and (d).

23 SECTION 2. IC 20-28-9-1.5, AS AMENDED BY P.L.215-2018(ss),
 24 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2019]: Sec. 1.5. (a) This subsection governs salary increases
 26 for a teacher employed by a school corporation. Compensation
 27 attributable to additional degrees or graduate credits earned before the
 28 effective date of a local compensation plan created under this chapter
 29 before July 1, 2015, shall continue for school years beginning after
 30 June 30, 2015. Compensation attributable to additional degrees for
 31 which a teacher has started course work before July 1, 2011, and
 32 completed course work before September 2, 2014, shall also continue
 33 for school years beginning after June 30, 2015. For school years
 34 beginning after June 30, 2015, a school corporation may provide a
 35 supplemental payment to a teacher in excess of the salary specified in
 36 the school corporation's compensation plan under any of the following
 37 circumstances:

- 38 (1) The teacher:
 - 39 (A) teaches an advanced placement course or a Cambridge
 - 40 International course; or
 - 41 (B) has earned a master's degree from an accredited
 - 42 postsecondary educational institution in a content area directly



- 1 related to the subject matter of:
 2 (i) a dual credit course; or
 3 (ii) another course;
 4 taught by the teacher.
 5 (2) Beginning after June 30, 2018, the teacher:
 6 (A) is a special education professional; or
 7 (B) teaches in the areas of science, technology, engineering, or
 8 mathematics.

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

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

17 (1) A combination of the following factors taken together may
 18 account for not more than thirty-three and one-third percent
 19 (33.33%) of the calculation used to determine a teacher's increase
 20 or increment:

- 21 (A) The number of years of a teacher's experience.
 22 (B) The possession of either:
 23 (i) additional content area degrees beyond the requirements
 24 for employment; or
 25 (ii) additional content area degrees and credit hours beyond
 26 the requirements for employment, if required under an
 27 agreement bargained under IC 20-29.

28 ~~(2) The results of an evaluation conducted under IC 20-28-11.5.~~

29 ~~(3) (2) The assignment of instructional leadership roles, including~~
 30 ~~the responsibility for conducting evaluations under IC 20-28-11.5.~~

31 ~~(4) (3) The academic needs of students in the school corporation.~~

32 **(c) Increases or increments in a local salary range are not**
 33 **required to be equal for all teachers even if the salary increases or**
 34 **increments are based on the same combination of weighted factors**
 35 **described in subsection (b).**

36 ~~(d)~~ **(d)** To provide greater flexibility and options, a school
 37 corporation may differentiate the amount of salary increases or
 38 increments determined for teachers under subsection ~~(b)(4)~~. **(b)(3)**. A
 39 school corporation shall base a differentiated amount under this
 40 subsection on any academic needs the school corporation determines
 41 are appropriate, which may include the:

- 42 (1) subject or subjects, including the subjects described in



- 1 subsection (a)(2), taught by a given teacher;
 2 (2) importance of retaining a given teacher at the school
 3 corporation; and
 4 (3) need to attract an individual with specific qualifications to fill
 5 a teaching vacancy.
- 6 ~~(d)~~ (e) A school corporation may provide differentiated increases or
 7 increments under subsection (b), and in excess of the percentage
 8 specified in subsection (b)(1), in order to reduce the gap between the
 9 school corporation's minimum teacher salary and the average of the
 10 school corporation's minimum and maximum teacher salaries.
- 11 ~~(e)~~ (f) Except as provided in subsection ~~(f)~~; (g), a teacher rated
 12 ineffective or improvement necessary under IC 20-28-11.5 may not
 13 receive any raise or increment for the following year if the teacher's
 14 employment contract is continued. The amount that would otherwise
 15 have been allocated for the salary increase of teachers rated ineffective
 16 or improvement necessary shall be allocated for compensation of all
 17 teachers rated effective and highly effective based on the criteria in
 18 subsection (b).
- 19 ~~(f)~~ (g) Subsection ~~(e)~~ (f) does not apply to a teacher in the first two
 20 (2) full school years that the teacher provides instruction to students in
 21 elementary school or high school. If a teacher provides instruction to
 22 students in elementary school or high school in another state, any full
 23 school year, or its equivalent in the other state, that the teacher provides
 24 instruction counts toward the two (2) full school years under this
 25 subsection.
- 26 ~~(g)~~ (h) A teacher who does not receive a raise or increment under
 27 subsection ~~(e)~~ (f) may file a request with the superintendent or
 28 superintendent's designee not later than five (5) days after receiving
 29 notice that the teacher received a rating of ineffective. The teacher is
 30 entitled to a private conference with the superintendent or
 31 superintendent's designee.
- 32 ~~(h)~~ (i) The Indiana education employment relations board
 33 established in IC 20-29-3-1 shall publish a model compensation plan
 34 with a model salary range that a school corporation may adopt.
- 35 ~~(i)~~ (j) Each school corporation shall submit its local compensation
 36 plan to the Indiana education employment relations board. For a school
 37 year beginning after June 30, 2015, a local compensation plan must
 38 specify the range for teacher salaries. The Indiana education
 39 employment relations board shall publish the local compensation plans
 40 on the Indiana education employment relations board's Internet web
 41 site.
- 42 ~~(j)~~ (k) The Indiana education employment relations board shall



1 review a compensation plan for compliance with this section as part of
 2 its review under IC 20-29-6-6.1. The Indiana education employment
 3 relations board has jurisdiction to determine compliance of a
 4 compensation plan submitted under this section.

5 ~~(k)~~ **(l)** This chapter may not be construed to require or allow a
 6 school corporation to decrease the salary of any teacher below the
 7 salary the teacher was earning on or before July 1, 2015, if that
 8 decrease would be made solely to conform to the new compensation
 9 plan.

10 ~~(h)~~ **(m)** After June 30, 2011, all rights, duties, or obligations
 11 established under IC 20-28-9-1 before its repeal are considered rights,
 12 duties, or obligations under this section.

13 SECTION 3. IC 20-29-2-6, AS AMENDED BY P.L.213-2018(ss),
 14 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2019]: Sec. 6."Deficit financing" for a budget year:

16 (1) means, except as provided in subdivision (2), ~~actual~~
 17 ~~expenditures exceeding the employer's current year actual~~
 18 ~~education fund revenue and, for a school employer for which the~~
 19 ~~voters have passed an operating referendum tax levy under~~
 20 ~~IC 20-46-1, the amount of revenue certified by the department of~~
 21 ~~local government finance; expenditures exceeding the money~~
 22 **legally available to the employer; or**

23 (2) means, in the case of any distressed school corporation, the
 24 Gary Community School Corporation, or the Muncie Community
 25 school corporation, actual expenditures plus additional payments
 26 against any outstanding debt obligations exceeding the employer's
 27 current year actual education fund revenue, and, for a school
 28 employer for which the voters have passed an operating
 29 referendum tax levy under IC 20-46-1, the amount of revenue
 30 certified by the department of local government finance.

31 Revenue does not include money estimated to be or actually transferred
 32 from the school corporation's operations fund to its education fund.

33 SECTION 4. IC 20-29-6-3, AS AMENDED BY P.L.244-2017,
 34 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2019]: Sec. 3. (a) It is unlawful for a school employer to enter
 36 into any agreement that would place the employer in a position of
 37 deficit financing. ~~due to a reduction in the employer's actual general~~
 38 ~~fund (before January 1, 2019) or education fund (after December 31,~~
 39 ~~2018) revenue or an increase in the employer's expenditures when the~~
 40 ~~expenditures exceed the employer's current year actual general fund~~
 41 ~~(before January 1, 2019) or education fund (after December 31, 2018)~~
 42 ~~revenue. Revenue does not include money estimated to be or actually~~



1 transferred from the school corporation's operating fund to its education
2 fund.

3 (b) A contract that provides for deficit financing is void to that
4 extent, and an individual teacher's contract executed under the contract
5 is void to that extent.

6 SECTION 5. IC 20-29-6-4, AS AMENDED BY P.L.217-2017,
7 SECTION 101, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A school employer shall
9 bargain collectively with the exclusive representative on the following:

10 (1) Salary.

11 (2) Wages.

12 (3) Salary and wage related fringe benefits, including accident,
13 sickness, health, dental, vision, life, disability, retirement benefits,
14 and paid time off as permitted to be bargained under
15 IC 20-28-9-11.

16 **(4) Hours.**

17 (b) Salary and wages include the amounts of pay increases available
18 to employees under the compensation plan adopted under
19 IC 20-28-9-1.5, but do not include the teacher evaluation procedures
20 and criteria, any components of the teacher evaluation plan, rubric, or
21 tool, or any performance stipend or addition to base salary based on a
22 stipend to an individual teacher under IC 20-43-10-3.5.

23 SECTION 6. IC 20-29-6-7, AS AMENDED BY P.L.217-2017,
24 SECTION 103, IS AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2019]: Sec. 7. A school employer shall discuss
26 with the exclusive representative of certificated employees the
27 following items:

28 (1) Curriculum development and revision.

29 (2) Selection of curricular materials.

30 (3) Teaching methods.

31 (4) Hiring, evaluation, promotion, demotion, transfer, assignment,
32 and retention of certificated employees.

33 (5) Student discipline.

34 (6) Expulsion or supervision of students.

35 (7) Pupil/teacher ratio.

36 (8) Class size or budget appropriations.

37 (9) Safety issues for students and employees in the workplace,
38 except those items required to be kept confidential by state or
39 federal law.

40 **(10) Hours: Working conditions.**

41 (11) Funding for a plan for a remediation program for any subset
42 of students enrolled in kindergarten through grade 12.



- 1 (12) The following nonbargainable items under IC 20-43-10-3.5:
 2 (A) Teacher appreciation grants.
 3 (B) Individual teacher appreciation grant stipends to teachers.
 4 (C) Additions to base salary based on teacher appreciation
 5 grant stipends.
 6 (13) The pre-evaluation planning session required under
 7 IC 20-28-11.5-4.
 8 (14) The superintendent's report to the governing body concerning
 9 staff performance evaluations required under IC 20-28-11.5-9.
 10 (15) A career pathways and mentorship plan established under
 11 IC 20-20-42.2.

12 **(16) Student learning.**

13 SECTION 7. [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]

14 **(a) The definitions in IC 20 apply throughout this SECTION.**

15 **(b) Notwithstanding IC 20-28-11.5-4 or 511 IAC 10-6-4,**
 16 **ILEARN program test scores from the ILEARN program tests**
 17 **under IC 20-32-5.1 taken in the spring of 2019 or 2020, may not be**
 18 **used by a school corporation as part of an annual performance**
 19 **evaluation of a particular certificated employee under a**
 20 **performance plan developed under IC 20-28-11.5-4.**

21 **(c) This SECTION expires January 1, 2022.**

22 SECTION 8. [EFFECTIVE JULY 1, 2018 (RETROACTIVE)] **(a)**
 23 **IC 20-29-2-6 was amended by P.L.213-2018(ss), SECTION 24,**
 24 **effective July 1, 2018, and was amended by P.L.213-2018(ss),**
 25 **SECTION 25, effective January 1, 2019. The general assembly**
 26 **intends for the version of IC 20-29-2-6 amended by**
 27 **P.L.213-2018(ss), SECTION 24, to expire December 31, 2018, and**
 28 **for the version of IC 20-29-2-6 amended by P.L.213-2018(ss),**
 29 **SECTION 25, to take effect January 1, 2019.**

30 **(b) This SECTION expires December 31, 2019.**

31 SECTION 9. An emergency is declared for this act.

