

BILL ANALYSIS

C.S.H.B. 2303
By: Keel
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, a county is not authorized to enter into an agreement with a bargaining committee that is the sole and exclusive bargaining agent for a group of public employees. C.S.H.B. 2303 authorizes certain counties to recognize a bargaining committee as the bargaining agent for all of the covered peace officers and detention officers (officers) of a sheriff's department, and prohibits a county from being denied local control over wages, salaries, rates of pay, hours of work, and other terms and conditions of employment of officers on which the public employer and bargaining committee agree.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Chapter 158, Local Government Code, by adding Subchapter C, as follows:

SUBCHAPTER C. LOCAL CONTROL OF SHERIFF'S DEPARTMENT EMPLOYMENT MATTERS

Sec. 158.071. **APPLICABILITY.** Provides that this subchapter applies only to a county in which Subchapter B (Sheriff's Department Civil Service System) has been adopted before September 1, 2003, with the exception that this subchapter does not apply to a county that has adopted Chapter 174 (Fire and Police Employee Relations) before September 1, 2003 or has a population of more than one million.

Sec. 158.072. **DEFINITIONS.** Defines "bargaining committee" and "public employer."

Sec. 158.073. **GENERAL PROVISIONS RELATING TO AGREEMENTS AND RECOGNITION.** (a) Prohibits a county from being denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment, to the extent the public employer and the bargaining committee recognized as the sole and exclusive bargaining agent under Section 158.075 agree as provided by this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules and regulations apply to an issue not governed by the agreement.

(b) Provides that an agreement under this subchapter must be written.

(c) Provides that this subchapter does not require either a public employer or a recognized bargaining committee to meet and confer on any issue or reach an agreement.

(d) Requires the public employer's chief executive officer or the chief executive officer's designee to select a group of persons to represent the public employer as its sole and exclusive bargaining agent for issues related to the employment of peace officers and detention officers by the sheriff's department.

(e) Authorizes the sheriff to designate as exempt from the application of an agreement

under this subchapter persons described by Section 158.038(b) in the number prescribed by Section 158.038(b).

Sec. 158.074. **STRIKES PROHIBITED.** (a) Authorizes a public employer and the recognized bargaining committee to meet and confer only if the bargaining committee and any employee organization composed primarily of peace officers and detention officers of a sheriff's department do not advocate the illegal right to strike by public employees.

(b) Prohibits a peace officer or detention officer of a sheriff's department from engaging in a strike or organized work stoppage against this state or a political subdivision of this state.

(c) Provides that a peace officer or detention officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the peace officer or detention officer may have as a result of the person's employment or prior employment with the sheriff's department.

(d) Provides that this section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Sec. 158.075. **RECOGNITION OF PEACE OFFICERS AND DETENTION OFFICERS BARGAINING COMMITTEE.** (a) Requires the public employer, in a county that chooses to meet and confer under this subchapter, to recognize a bargaining committee submitting a petition for recognition signed by a majority of the peace officers and detention officers employed by the sheriff's department, excluding the sheriff and persons the sheriff has designated as exempt under Section 158.073(e), as the sole and exclusive bargaining agent for all of the peace officers and detention officers employed by the sheriff's department, excluding the sheriff and persons the sheriff has designated as exempt under Section 158.073(e), until recognition of the bargaining committee is withdrawn by a majority of the peace officers and detention officers eligible to sign a petition for recognition.

(b) Provides that whether a bargaining committee represents a majority of the covered peace officers and detention officers shall be resolved by a fair election conducted according to procedures agreeable to the parties.

(c) Provides that if the parties are unable to agree on election procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election under this subsection resolves the question concerning representation.

(d) Provides that the bargaining committee is liable for the expenses of an election under this section, except that if two or more committees seeking recognition as the sole and exclusive bargaining agent submit petitions signed by a majority of the peace officers and detention officers eligible to sign the petition, the committees shall share equally the costs of the election.

Sec. 158.076. **OPEN RECORDS.** (a) Provides that a proposed agreement and a document prepared and used by the sheriff's department in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ratified by the commissioners court.

(b) Provides that this section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used by the sheriff's department in connection with the agreement.

Sec. 158.077. **RATIFICATION AND ENFORCEABILITY OF AGREEMENT.** (a) Provides

that an agreement under this subchapter is enforceable and binding on the public employer, the recognized bargaining committee, and peace officers and detention officers covered by the agreement only if:

- (1) the commissioners court ratified the agreement by a majority vote; and
- (2) the recognized bargaining committee ratified the agreement by conducting a secret ballot election at which only the peace officers and detention officers of the county in the employee organization or organizations representing peace officers and detention officers who could be covered by the agreement were eligible to vote, and a majority of the votes cast at the election favored ratifying the agreement.

(b) Provides that an agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) Provides that a state district court of a judicial district in which the county is located has jurisdiction to hear and resolve a dispute under the ratified agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. Authorizes the court to issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, as appropriate to enforce the agreement.

Sec. 158.078. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) Provides that a written agreement ratified under this subchapter preempts, during the term of the agreement, and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the sheriff or county or a division or agent of the sheriff or county, such as a personnel board or a civil service commission.

(b) Provides that an agreement ratified under this subchapter may not interfere with the right of a member of an employee organization to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Sec. 158.079. ELECTION TO REPEAL AGREEMENT. The bill allows for a petition to repeal a ratified agreement to be presented to the county judge, provided that it is not later than the 60th day after the agreement is ratified and the petition is signed by a certain amount of registered voters. Upon the presentation of the petition, the commissioners court is required to repeal the agreement or call an election to determine whether to repeal the agreement.

SECTION 2. September 1, 2003.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by specifying that the Act applies only to a county that has adopted provisions governing a sheriff's department civil service system before September 1, 2003, with an exception. The substitute also adds Sec. 158.079, relating to an election to repeal an agreement.