

By: Bailey

H.B. No. 1642

A BILL TO BE ENTITLED

AN ACT

relating to the conditions of employment for certain fire fighters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Local Government Code, is amended by adding Chapter 176 to read as follows:

CHAPTER 176. LOCAL CONTROL OF FIRE FIGHTER EMPLOYMENT MATTERS

Sec. 176.001. APPLICABILITY. This chapter does not apply to:

(1) a political subdivision that has adopted Chapter 174;

(2) a municipality to which Subchapter H or I of Chapter 143 applies; or

(3) a municipality with a population greater than one million.

Sec. 176.002. DEFINITIONS. In this chapter:

(1) "Fire fighters association" means an organization in which fire fighters participate and that exists for the purpose, in whole or in part, of dealing with one or more employers, whether public or private, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work affecting public employees.

(2) "Public employer" means any political subdivision, including a municipality, or an agency, board, commission, or other governmental entity controlled by a political

1 subdivision, that is required to establish the wages, salaries,
2 rates of pay, hours, working conditions, and other terms and
3 conditions of employment of fire fighters and diversity programs of
4 fire departments. The term includes, under appropriate
5 circumstances, a mayor, manager, administrator of a municipality,
6 municipal governing body, commissioners court, director of
7 personnel, personnel board, or one or more other officials,
8 regardless of the name by which they are designated.

9 Sec. 176.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
10 RECOGNITION. (a) To the extent the public employer and the fire
11 fighters association recognized as the sole and exclusive meet and
12 confer agent for the fire fighters employed by the political
13 subdivision come to a mutual agreement on any of the terms of
14 employment or personnel issues, a political subdivision may not be
15 denied local control over:

16 (1) the wages, salaries, rates of pay, hours of work,
17 diversity programs, and other terms of employment; or

18 (2) other personnel issues.

19 (b) If an agreement is not reached, the local ordinances and
20 civil service rules remain unaffected.

21 (c) All agreements must be written.

22 (d) Nothing in this chapter requires either party to meet
23 and confer on any issue or reach an agreement.

24 Sec. 176.004. STRIKES PROHIBITED. (a) A public employer
25 may meet and confer only if the fire fighters association
26 recognized under this chapter as the sole and exclusive meet and
27 confer agent does not advocate the illegal right to strike by public

1 employees.

2 (b) Fire fighters of a political subdivision may not engage
3 in strikes or organized work stoppages against this state or a
4 political subdivision of this state.

5 (c) A fire fighter who participates in a strike forfeits all
6 civil service rights, reemployment rights, and any other rights,
7 benefits, or privileges the fire fighter enjoys as a result of
8 employment or prior employment, except that the right of an
9 individual to cease work may not be abridged if the individual is
10 not acting in concert with others in an organized work stoppage.

11 Sec. 176.005. RECOGNITION OF FIRE FIGHTERS ASSOCIATION.

12 (a) In a political subdivision that chooses to meet and confer
13 under this chapter, a fire fighters association submitting a
14 petition signed by a majority of the fire fighters employed by the
15 political subdivision, excluding the head of the fire department
16 and assistant department heads in the rank or classification
17 immediately below that of the department head, shall be recognized
18 by the public employer as the sole and exclusive meet and confer
19 agent for all of the fire fighters employed by the political
20 subdivision, excluding the department head and assistant
21 department heads, until recognition of the association is withdrawn
22 by a majority of those fire fighters.

23 (b) Whether a fire fighters association represents a
24 majority of the covered fire fighters shall be resolved by a fair
25 election conducted according to procedures agreeable to the
26 parties. If the parties are unable to agree on procedures, either
27 party may request the Federal Mediation and Conciliation Service to

1 conduct the election and to certify the results.

2 (c) Certification of the results of an election resolves the
3 question concerning representation.

4 (d) The fire fighters association is liable for the expenses
5 of the election, except that if two or more associations seeking
6 recognition as the meet and confer agent submit petitions signed by
7 a majority of the fire fighters eligible to sign the petition, the
8 associations shall share equally the costs of the election.

9 Sec. 176.006. OPEN MEETINGS REQUIRED. All deliberations
10 relating to an agreement between a fire fighters association and a
11 public employer shall be open to the public and held in compliance
12 with any applicable state statutes.

13 Sec. 176.007. RATIFICATION OF AGREEMENT. A written
14 agreement made under this chapter between a public employer and a
15 fire fighters association recognized as the sole and exclusive meet
16 and confer agent is enforceable and binding on the public employer,
17 the fire fighters association recognized as the sole and exclusive
18 meet and confer agent, and fire fighters covered by the agreement
19 if:

20 (1) the political subdivision's governing body
21 ratified the agreement by a majority vote; and

22 (2) the fire fighters association ratified the
23 agreement by conducting a secret ballot election at which only fire
24 fighters of the political subdivision in the association were
25 eligible to vote, and a majority of the votes cast at the election
26 avored ratifying the agreement.

27 Sec. 176.008. ENFORCEABILITY OF AGREEMENT. (a) A state

1 district court of a judicial district in which a majority of the
2 population of the political subdivision is located has full
3 authority and jurisdiction on the application of either party
4 aggrieved by an action or omission of the other party when the
5 action or omission is related to a right, duty, or obligation
6 provided by any written agreement ratified under Section 176.007.

7 (b) The court may issue proper restraining orders,
8 temporary and permanent injunctions, and any other writ, order, or
9 process, including contempt orders, that are appropriate to
10 enforcing the written agreement ratified under Section 176.007.

11 Sec. 176.009. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

12 (a) To the extent of any conflict with a previous statute, a
13 written agreement under this chapter between a public employer and
14 the fire fighters association recognized as the sole and exclusive
15 meet and confer agent supersedes, during the term of the agreement,
16 the previous statute concerning:

17 (1) wages, salaries, rates of pay, and hours of work;
18 and

19 (2) other terms of employment, including affirmative
20 action programs.

21 (b) A written agreement under this chapter preempts all
22 contrary local ordinances, executive orders, civil service
23 provisions, or rules adopted by a political subdivision or a
24 division or agent of a political subdivision, such as a personnel
25 board or a civil service commission.

26 (c) An agreement under this chapter may not diminish or
27 qualify any right, benefit, or privilege of an employee under a

1 civil service statute or other state law unless approved by a
2 majority of the votes received in the secret ballot election on the
3 agreement by the members of the fire fighters association
4 recognized as the sole and exclusive meet and confer agent.

5 (d) A matter that is not covered by an agreement ratified
6 under Section 176.007 remains covered by any applicable agreement
7 or any applicable statute, civil service provision, or other state
8 or local law.

9 SECTION 2. This Act takes effect September 1, 2003.