

By: Bailey

H.B. No. 1643

Substitute the following for H.B. No. 1643:

By: Talton

C.S.H.B. No. 1643

A BILL TO BE ENTITLED

AN ACT

relating to conditions of employment for peace officers employed by certain municipalities.

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

SECTION 1. Subtitle A, Title 5, Local Government Code, is amended by adding Chapter 145 to read as follows:

CHAPTER 145. LOCAL CONTROL OF PEACE OFFICER EMPLOYMENT MATTERS

IN CERTAIN MUNICIPALITIES

Sec. 145.001. APPLICABILITY. (a) Except as provided by Subsection (b), this chapter applies only to a municipality of this state that has a population of 10,000 or more and has adopted Chapter 143.

(b) This chapter does not apply to a municipality that:

(1) has adopted Chapter 174; or

(2) is covered by Subchapter H, I, or J, Chapter 143.

Sec. 145.002. DEFINITIONS. In this chapter:

(1) "Peace officer" means a person defined as a peace officer by Article 2.12, Code of Criminal Procedure, or other law.

(2) "Peace officer's bargaining committee" means a committee in which peace officers employed by a municipality of this state participate and that exists for the purpose, in whole or in part, of meeting and conferring with the municipality concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting peace officers.

1           (3) "Public employer" means a municipality of this  
2 state or a law enforcement agency of the municipality that is  
3 required to establish the wages, salaries, rates of pay, hours of  
4 work, working conditions, and other terms and conditions of  
5 employment of peace officers employed by the municipality.

6           Sec. 145.003. STRIKES PROHIBITED. (a) A peace officer of a  
7 municipality may not engage in a strike or organized work stoppage  
8 against this state or the municipality.

9           (b) A peace officer who participates in a strike forfeits  
10 any civil service rights, reemployment rights, and other rights,  
11 benefits, or privileges the peace officer may have as a result of  
12 the person's employment or prior employment with the municipality.

13           (c) This section does not affect the right of a person to  
14 cease work if the person is not acting in concert with others in an  
15 organized work stoppage.

16           Sec. 145.004. MANDATORY PROVISIONS RELATED TO AGREEMENTS.  
17 An agreement ratified in accordance with this chapter shall  
18 include:

19           (1) a process that provides for the review and  
20 oversight of the law enforcement agency and peace officers employed  
21 by the municipality by members of the public other than the elected  
22 members of the governing body of the municipality;

23           (2) a policy that follows state law as to racial  
24 profiling;

25           (3) an open, fair, competitive, and equitable  
26 promotion process;

27           (4) a hiring process designed to encourage the

1 application and recruitment of women and minorities; and

2 (5) a prohibition against interfering with the right  
3 of a person who is a member of the bargaining unit to pursue  
4 allegations of discrimination based on race, creed, color, national  
5 origin, religion, age, sex, or disability with the Commission on  
6 Human Rights or the federal Equal Employment Opportunity Commission  
7 or to pursue affirmative action litigation.

8 Sec. 145.005. GENERAL PROVISIONS RELATING TO AGREEMENTS.

9 (a) A municipality may not be denied local control over the wages,  
10 salaries, rates of pay, hours of work, or other terms and conditions  
11 of employment to the extent the public employer and the peace  
12 officer's bargaining committee recognized as the sole and exclusive  
13 bargaining agent under Section 145.007 agree as provided by this  
14 chapter. Applicable statutes and applicable local orders,  
15 ordinances, and civil service rules apply to an issue not governed  
16 by the agreement.

17 (b) An agreement under this chapter must be written.

18 (c) This chapter does not require a public employer or a  
19 recognized peace officer's bargaining committee to meet and confer  
20 on any issue or reach an agreement.

21 (d) A public employer and the recognized peace officer's  
22 bargaining committee may meet and confer only if the committee does  
23 not advocate an illegal strike by public employees.

24 Sec. 145.006. SELECTION OF PUBLIC EMPLOYER'S BARGAINING  
25 COMMITTEE. (a) The public employer's chief executive officer or  
26 the chief executive officer's designee shall select a group of  
27 persons to represent the public employer as its sole and exclusive

1 bargaining agent for issues related to the employment of peace  
2 officers by the municipality.

3 (b) The public employer's bargaining committee must be  
4 representative of the community.

5 Sec. 145.007. RECOGNITION OF PEACE OFFICER'S BARGAINING  
6 COMMITTEE. (a) In a municipality that chooses to meet and confer  
7 under this chapter, the public employer shall recognize a peace  
8 officer's bargaining committee selected in accordance with this  
9 section.

10 (b) A petition for recognition signed by a majority of the  
11 peace officers employed by the municipality, excluding the peace  
12 officers exempt under Section 145.008, shall designate by name at  
13 least five peace officers to serve on the peace officer's  
14 bargaining committee to represent the peace officers as the sole  
15 and exclusive bargaining agent on issues related to the employment  
16 of peace officers by the municipality.

17 (c) After the initial agreement, the peace officer's  
18 bargaining committee shall submit the names of its representatives  
19 to the public employer before a meeting with the public employer's  
20 bargaining committee under this chapter.

21 (d) The peace officer's bargaining committee shall make a  
22 reasonable effort to include peace officers on the committee who  
23 reflect the cultural and ethnic diversity of the law enforcement  
24 agency and that represent the agency's divisions.

25 (e) In addition to the representatives selected by the  
26 majority of peace officers to serve on the peace officer's  
27 bargaining committee under Subsection (b), the committee shall

1 include additional representatives if the municipality has more  
2 than one organization that represents the peace officers employed  
3 by the municipality. Each organization is entitled to one  
4 representative on the peace officer's bargaining committee if:

5 (1) the organization is a labor organization listed  
6 under Section 501(c)(4) or (5), Internal Revenue Code of 1986, and  
7 has a bona fide membership that includes at least 30 percent of the  
8 peace officers employed by the municipality; or

9 (2) the organization represents members who are  
10 primarily racial minority peace officers and has a bona fide  
11 membership that includes at least 30 percent of the peace officers  
12 in the represented class employed by the municipality.

13 (f) The peace officer's bargaining committee shall fairly  
14 represent all peace officers employed by the municipality  
15 regardless of race, creed, color, ethnic background, national  
16 origin, or affiliation of the peace officer with a particular labor  
17 group or organization.

18 (g) The public employer shall recognize the selected peace  
19 officer's bargaining committee until recognition of the  
20 association is withdrawn by a majority of the peace officers  
21 employed by the municipality, excluding employees exempt under  
22 Section 145.008.

23 Sec. 145.008. EXEMPT EMPLOYEES. The following peace  
24 officers are considered exempt and are not entitled to participate  
25 in the selection of the peace officer's bargaining committee, serve  
26 on the peace officer's bargaining committee, or vote in an election  
27 to ratify an agreement:

1           (1) the head of a law enforcement agency of the  
2 municipality;

3           (2) any employee considered exempt under Chapter 143  
4 if the municipality has adopted the chapter; or

5           (3) any other employee designated as exempt under an  
6 agreement ratified in accordance with this chapter.

7           Sec. 145.009. OPEN RECORDS. (a) A proposed agreement and a  
8 document prepared and used by the municipality in connection with a  
9 proposed agreement are available to the public under Chapter 552,  
10 Government Code, only after the agreement is ratified by the  
11 governing body of the municipality.

12           (b) This section does not affect the application of  
13 Subchapter C, Chapter 552, Government Code, to a document prepared  
14 and used by the municipality in connection with the agreement.

15           Sec. 145.010. RATIFICATION AND ENFORCEABILITY OF  
16 AGREEMENT. (a) An agreement under this chapter is enforceable and  
17 binding on the public employer, the recognized peace officer's  
18 bargaining committee, and the peace officers covered by the  
19 agreement only if:

20           (1) the governing body of the municipality ratified  
21 the agreement by a majority vote; and

22           (2) the recognized peace officer's bargaining  
23 committee ratified the agreement by conducting a secret ballot  
24 election of the peace officers of the municipality, excluding  
25 employees exempt under Section 145.008, and a majority of the votes  
26 cast at the election favored ratifying the agreement.

27           (b) A state district court of a judicial district in which

1 the municipality is located has jurisdiction to hear and resolve a  
2 dispute under the ratified agreement on the application of a party  
3 to the agreement aggrieved by an action or omission of the other  
4 party when the action or omission is related to a right, duty, or  
5 obligation provided by the agreement. The court may issue proper  
6 restraining orders, temporary and permanent injunctions, or any  
7 other writ, order, or process, including contempt orders, that are  
8 appropriate to enforcing the agreement.

9 Sec. 145.011. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

10 A written agreement ratified under this chapter preempts, during  
11 the term of the agreement and to the extent of any conflict, all  
12 contrary state statutes, local ordinances, executive orders, civil  
13 service provisions, or rules adopted by the head of the law  
14 enforcement agency or municipality or by a division or agent of the  
15 municipality, such as a personnel board or a civil service  
16 commission.

17 Sec. 145.012. ELECTION TO REPEAL AGREEMENT. (a) Not later  
18 than the 60th day after the date an agreement is ratified by the  
19 public employer and the peace officer's bargaining committee, a  
20 petition calling for the repeal of the agreement signed by a number  
21 of registered voters who reside in the municipality equal to at  
22 least 10 percent of the votes cast at the most recent general  
23 election held in the municipality may be presented to the person  
24 charged with ordering an election under Section 3.004, Election  
25 Code.

26 (b) If a petition is presented under Subsection (a), the  
27 governing body of the municipality shall:

1           (1) repeal the agreement; or

2           (2) certify that it is not repealing the agreement and  
3 call an election to determine whether to repeal the agreement.

4           (c) An election called under Subsection (b)(2) may be held  
5 as part of the next regularly scheduled general election of the  
6 municipality or at a special election called by the governing body  
7 of the municipality for that purpose. The ballot shall be printed  
8 to provide for voting for or against the proposition: "Repeal the  
9 agreement ratified on \_\_\_\_\_ (date agreement was ratified) by the  
10 \_\_\_\_\_ (name of the governing body of the municipality) and the  
11 peace officers employed by the \_\_\_\_\_ (name of public employer)  
12 concerning wages, salaries, rates of pay, hours of work, and other  
13 terms of employment."

14           (d) If a majority of the votes cast at the election favor the  
15 repeal of the agreement, the agreement is void.

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