

By: Bailey

H.B. No. 1643

A BILL TO BE ENTITLED

AN ACT

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

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 PEACE OFFICER EMPLOYMENT MATTERS IN CERTAIN POLITICAL SUBDIVISIONS

Sec. 176.001. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies to a political subdivision of this state that employs peace officers.

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

(1) has adopted Chapter 174;

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

or

(3) is covered by Subchapter P, Chapter 451, Transportation Code.

Sec. 176.002. DEFINITIONS. In this chapter:

(1) "Association" means an organization in which peace officers employed by a political subdivision of this state participate and that exists for the purpose, in whole or in part, of dealing with the political subdivision concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of

1 work affecting peace officers.

2 (2) "Peace officer" means a person defined as a peace
3 officer by Article 2.12, Code of Criminal Procedure, or other law or
4 a person employed by a county as a detention officer or jailer.

5 (3) "Public employer" means a political subdivision of
6 this state or a law enforcement agency of the political subdivision
7 that is required to establish the wages, salaries, rates of pay,
8 hours of work, working conditions, and other terms and conditions
9 of employment of peace officers employed by the political
10 subdivision.

11 Sec. 176.003. GENERAL PROVISIONS RELATING TO AGREEMENTS.

12 (a) A political subdivision may not be denied local control over
13 the wages, salaries, rates of pay, hours of work, or other terms and
14 conditions of employment to the extent the public employer and the
15 association recognized as the sole and exclusive bargaining agent
16 under Section 176.006 agree as provided by this chapter.
17 Applicable statutes and applicable local orders, ordinances, and
18 civil service rules apply to an issue not governed by the agreement.

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

20 (c) This chapter does not require a public employer or a
21 recognized association to meet and confer on any issue or reach an
22 agreement.

23 (d) A public employer and the recognized association may
24 meet and confer only if the association does not advocate an illegal
25 strike by public employees.

26 Sec. 176.004. STRIKES PROHIBITED. (a) A peace officer of
27 a political subdivision of this state may not engage in a strike or

1 organized work stoppage against this state or the political
2 subdivision.

3 (b) A peace officer who participates in a strike forfeits
4 any civil service rights, reemployment rights, and other rights,
5 benefits, or privileges the peace officer may have as a result of
6 the person's employment or prior employment with the political
7 subdivision.

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

11 Sec. 176.005. SELECTION OF BARGAINING AGENT. The public
12 employer's chief executive officer or the chief executive officer's
13 designee shall select a group of persons to represent the public
14 employer as its sole and exclusive bargaining agent for issues
15 related to the employment of peace officers by the political
16 subdivision.

17 Sec. 176.006. RECOGNITION OF PEACE OFFICER ASSOCIATION.

18 (a) In a political subdivision that chooses to meet and confer
19 under this chapter, the public employer shall recognize an
20 association submitting a petition for recognition signed by a
21 majority of the peace officers employed by the political
22 subdivision or a law enforcement agency of the political
23 subdivision, excluding the head of the agency and the employees
24 exempt under Subsection (b), as the sole and exclusive bargaining
25 agent for all of the peace officers employed by the political
26 subdivision or law enforcement agency, excluding the agency head
27 and exempt employees.

1 (b) For the purposes of Subsection (a), exempt employees are
2 the employees that the head of the law enforcement agency of the
3 political subdivision designates as exempt in the manner prescribed
4 by Chapter 143 or 158.

5 (c) The public employer shall recognize the association
6 until recognition of the association is withdrawn by a majority of
7 the peace officers eligible to sign a petition for recognition.

8 Sec. 176.007. ELECTION. (a) Whether an association
9 represents a majority of the covered peace officers shall be
10 resolved by a fair election conducted according to procedures
11 agreeable to the parties.

12 (b) If the parties are unable to agree on election
13 procedures, either party may request the American Arbitration
14 Association to conduct the election and to certify the results.
15 Certification of the results of an election under this section
16 resolves the question concerning representation.

17 (c) The association is liable for the expenses of the
18 election, except that if two or more associations seeking
19 recognition as the bargaining agent submit petitions signed by a
20 majority of the peace officers eligible to sign the petition, the
21 associations shall share equally the costs of the election.

22 Sec. 176.008. OPEN RECORDS. (a) A proposed agreement and a
23 document prepared and used by the political subdivision in
24 connection with a proposed agreement are available to the public
25 under Chapter 552, Government Code, only after the agreement is
26 ratified by the governing body of the political subdivision.

27 (b) This section does not affect the application of

1 Subchapter C, Chapter 552, Government Code, to a document prepared
2 and used by the political subdivision in connection with the
3 agreement.

4 Sec. 176.009. RATIFICATION AND ENFORCEABILITY OF
5 AGREEMENT. (a) An agreement under this chapter is enforceable and
6 binding on the public employer, the recognized association, and the
7 peace officers covered by the agreement only if:

8 (1) the governing body of the political subdivision
9 ratified the agreement by a majority vote; and

10 (2) the recognized association ratified the agreement
11 by conducting a secret ballot election at which only the peace
12 officers of the political subdivision or law enforcement agency of
13 the political subdivision in the association were eligible to vote,
14 and a majority of the votes cast at the election favored ratifying
15 the agreement.

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

21 (c) A state district court of a judicial district in which
22 the political subdivision is located has jurisdiction to hear and
23 resolve a dispute under the ratified agreement on the application
24 of a party to the agreement aggrieved by an action or omission of
25 the other party when the action or omission is related to a right,
26 duty, or obligation provided by the agreement. The court may issue
27 proper restraining orders, temporary and permanent injunctions, or

1 any other writ, order, or process, including contempt orders, that
2 are appropriate to enforcing the agreement.

3 Sec. 176.010. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

4 (a) A written agreement ratified under this chapter preempts,
5 during the term of the agreement and to the extent of any conflict,
6 all contrary state statutes, local ordinances, executive orders,
7 civil service provisions, or rules adopted by the head of the law
8 enforcement agency or political subdivision or by a division or
9 agent of the political subdivision, such as a personnel board or a
10 civil service commission.

11 (b) An agreement ratified under this chapter may not
12 interfere with the right of a member of a bargaining unit to pursue
13 allegations of discrimination based on race, creed, color, national
14 origin, religion, age, sex, or disability with the Commission on
15 Human Rights or the federal Equal Employment Opportunity Commission
16 or to pursue affirmative action litigation.

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