

By: Keel, Naishtat, Dukes, Stick, Rodriguez

H.B. No. 2303

Substitute the following for H.B. No. 2303:

By: Casteel

C.S.H.B. No. 2303

A BILL TO BE ENTITLED

AN ACT

relating to conditions of employment for a peace officer or a
detention officer employed by certain sheriff's departments.

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

SECTION 1. Chapter 158, Local Government Code, is amended
by adding Subchapter C to read as follows:

SUBCHAPTER C. LOCAL CONTROL OF SHERIFF'S DEPARTMENT

EMPLOYMENT MATTERS

Sec. 158.071. APPLICABILITY. (a) Except as provided by
Subsection (b), this subchapter applies only to a county in which
Subchapter B has been adopted before September 1, 2003.

(b) This subchapter does not apply to a county that:

(1) has adopted Chapter 174 before September 1, 2003;

or

(2) has a population of more than one million.

Sec. 158.072. DEFINITIONS. In this subchapter:

(1) "Bargaining committee" means a committee of one or
more employee organizations composed primarily of peace officers
assigned to the law enforcement division of the sheriff's
department and detention officers assigned to divisions in the
department other than the law enforcement division who have elected
to form a bargaining committee for the purpose, wholly or partly, of
dealing with the county concerning grievances, labor disputes,
wages, rates of pay, hours of work, or conditions of work affecting

1 the peace officers and detention officers.

2 (2) "Public employer" means a sheriff's department, a
3 county, or an agency, board, or commission controlled by a county
4 that is required to establish the wages, salaries, rates of pay,
5 hours of work, working conditions, and other terms and conditions
6 of employment of peace officers and detention officers employed by
7 the sheriff's department.

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

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

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

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

26 (e) The sheriff may designate as exempt from the application
27 of an agreement under this subchapter persons described by Section

1 158.038(b) in the number prescribed by Section 158.038(b).

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

8 (b) A peace officer or detention officer of a sheriff's
9 department may not engage in a strike or organized work stoppage
10 against this state or a political subdivision of this state.

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

16 (d) This section does not affect the right of a person to
17 cease work if the person is not acting in concert with others in an
18 organized work stoppage.

19 Sec. 158.075. RECOGNITION OF PEACE OFFICERS AND DETENTION
20 OFFICERS BARGAINING COMMITTEE. (a) In a county that chooses to
21 meet and confer under this subchapter, the public employer shall
22 recognize a bargaining committee submitting a petition for
23 recognition signed by a majority of the peace officers and
24 detention officers employed by the sheriff's department, excluding
25 the sheriff and persons the sheriff has designated as exempt under
26 Section 158.073(e), as the sole and exclusive bargaining agent for
27 all of the peace officers and detention officers employed by the

1 sheriff's department, excluding the sheriff and persons the sheriff
2 has designated as exempt under Section 158.073(e), until
3 recognition of the bargaining committee is withdrawn by a majority
4 of the peace officers and detention officers eligible to sign a
5 petition for recognition.

6 (b) Whether a bargaining committee represents a majority of
7 the covered peace officers and detention officers shall be resolved
8 by a fair election conducted according to procedures agreeable to
9 the parties.

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

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

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

26 (b) This section does not affect the application of
27 Subchapter C, Chapter 552, Government Code, to a document prepared

1 and used by the sheriff's department in connection with the
2 agreement.

3 Sec. 158.077. RATIFICATION AND ENFORCEABILITY OF
4 AGREEMENT. (a) An agreement under this subchapter is enforceable
5 and binding on the public employer, the recognized bargaining
6 committee, and peace officers and detention officers covered by the
7 agreement only if:

8 (1) the commissioners court ratified the agreement by
9 a majority vote; and

10 (2) the recognized bargaining committee ratified the
11 agreement by conducting a secret ballot election at which only the
12 peace officers and detention officers of the county in the employee
13 organization or organizations representing peace officers and
14 detention officers who could be covered by the agreement were
15 eligible to vote, and a majority of the votes cast at the election
16 avored ratifying the agreement.

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

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

1 orders, temporary and permanent injunctions, or any other writ,
2 order, or process, including contempt orders, as appropriate to
3 enforce the agreement.

4 Sec. 158.078. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

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

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

17 Sec. 158.079. 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 recognized bargaining committee in
20 accordance with Section 158.077, a petition calling for the repeal
21 of the agreement signed by a number of registered voters residing in
22 the county equal to at least 10 percent of the votes cast at the most
23 recent general election held in the county may be presented to the
24 county judge.

25 (b) If a petition is presented under Subsection (a), the
26 commissioners court shall:

27 (1) repeal the agreement; or

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

3 (c) An election called under Subsection (b)(2) may be held
4 as part of the next regularly scheduled general election of the
5 county or at a special election called by the commissioners court
6 for that purpose. The ballot shall be printed to provide for voting
7 for or against the proposition: "Repeal the agreement ratified on
8 _____ (date agreement was ratified) by the commissioners court and
9 the peace officers and detention officers employed by the sheriff's
10 department concerning wages, salaries, rates of pay, hours of work,
11 and other terms of employment."

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

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