

By: Keel

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. This subchapter does not apply to a county that:

(1) has adopted Chapter 174; 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, in whole or in part, of dealing with the county concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting the peace officers and detention officers.

(2) "Public employer" means a sheriff's department, a county, or an agency, board, or commission controlled by a county

1 that is required to establish the wages, salaries, rates of pay,
2 hours of work, working conditions, and other terms and conditions
3 of employment of peace officers and detention officers employed by
4 the sheriff's department.

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

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

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

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

23 (e) The sheriff may designate as exempt from the application
24 of an agreement under this subchapter persons described by Section
25 158.038(b) in the number prescribed by Section 158.038(b).

26 Sec. 158.074. STRIKES PROHIBITED. (a) A public employer
27 and the recognized bargaining committee may meet and confer only if

1 the bargaining committee and any employee organization composed
2 primarily of peace officers and detention officers of a sheriff's
3 department do not advocate the illegal right to strike by public
4 employees.

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

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

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

1 of the peace officers and detention officers eligible to sign a
2 petition for recognition.

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

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

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

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

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

27 Sec. 158.077. RATIFICATION AND ENFORCEABILITY OF

1 AGREEMENT. (a) An agreement under this subchapter is enforceable
2 and binding on the public employer, the recognized bargaining
3 committee, and peace officers and detention officers covered by the
4 agreement only if:

5 (1) the commissioners court ratified the agreement by
6 a majority vote; and

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

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

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

1 Sec. 158.078. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

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

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

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