

By: Alonzo

H.B. No. 2870

A BILL TO BE ENTITLED

AN ACT

relating to conditions of employment for corrections officers employed by certain municipalities or counties.

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 CORRECTIONS OFFICER EMPLOYMENT

MATTERS IN CERTAIN MUNICIPALITIES AND COUNTIES

Sec. 176.001. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies only to:

(1) a county with a population of more than two million that contains the majority of the territory of a municipality with a population of more than one million; and

(2) a municipality with a population of more than one million that has the majority of its territory located in a county described by Subdivision (1).

(b) This chapter does not apply to:

(1) a municipality that has adopted Chapter 143; or

(2) a county in which the most populous municipality has adopted Chapter 143.

Sec. 176.002. DEFINITIONS. (a) In this chapter:

(1) "Association" means an organization in which corrections officers employed by a municipality or county participate and that exists for the purpose, in whole or in part, of

1 dealing with the municipality or county concerning grievances,
2 labor disputes, wages, rates of pay, hours of work, or conditions of
3 work affecting corrections officers.

4 (2) "Public employer" means a municipality or county
5 or a law enforcement agency of the municipality or county that is
6 required to establish the wages, salaries, rates of pay, hours of
7 work, working conditions, and other terms and conditions of
8 employment of corrections officers employed by the municipality or
9 county.

10 (b) A reference in this chapter to "municipality or county"
11 means:

12 (1) only a municipality, to the extent the reference
13 involves correctional officers employed by a municipality; and

14 (2) only a county, to the extent the reference
15 involves correctional officers employed by a county.

16 Sec. 176.003. GENERAL PROVISIONS RELATING TO AGREEMENTS.

17 (a) The municipality or county may not be denied local control over
18 the wages, salaries, rates of pay, hours of work, or other terms and
19 conditions of employment to the extent the public employer and the
20 association recognized as the sole and exclusive bargaining agent
21 under Section 176.006 agree as provided by this chapter.
22 Applicable statutes and applicable local orders, ordinances, and
23 civil service rules apply to an issue not governed by the agreement.

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

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

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

4 Sec. 176.004. STRIKES PROHIBITED. (a) A corrections
5 officer of the municipality or county may not engage in a strike or
6 organized work stoppage against this state or the municipality or
7 county.

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

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. 176.005. SELECTION OF BARGAINING AGENT. The public
17 employer's chief executive officer or the chief executive officer's
18 designee shall select a group of persons to represent the public
19 employer as its sole and exclusive bargaining agent for issues
20 related to the employment of corrections officers by the
21 municipality or county.

22 Sec. 176.006. RECOGNITION OF PEACE OFFICER ASSOCIATION.
23 (a) If the municipality or county chooses to meet and confer under
24 this chapter, the public employer shall recognize an association
25 submitting a petition for recognition signed by a majority of the
26 corrections officers employed by the municipality or county or a
27 law enforcement agency of the municipality or county, excluding the

1 head of the agency and the employees exempt under Subsection (b), as
2 the sole and exclusive bargaining agent for all of the corrections
3 officers employed by the municipality or county or law enforcement
4 agency, excluding the agency head and exempt employees.

5 (b) For the purposes of Subsection (a), exempt employees are
6 the employees that the head of the law enforcement agency of the
7 municipality or county designates as exempt in the manner
8 prescribed by Chapter 143 or 158.

9 (c) The public employer shall recognize the association
10 until recognition of the association is withdrawn by a majority of
11 the corrections officers eligible to sign a petition for
12 recognition.

13 Sec. 176.007. ELECTION. (a) Whether an association
14 represents a majority of the covered corrections officers shall be
15 resolved by a fair election conducted according to procedures
16 agreeable to the parties.

17 (b) If the parties are unable to agree on election
18 procedures, either party may request the American Arbitration
19 Association to conduct the election and to certify the results.
20 Certification of the results of an election under this section
21 resolves the question concerning representation.

22 (c) The association is liable for the expenses of the
23 election, except that if two or more associations seeking
24 recognition as the bargaining agent submit petitions signed by a
25 majority of the corrections officers eligible to sign the petition,
26 the associations shall share equally the costs of the election.

27 Sec. 176.008. OPEN RECORDS. (a) A proposed agreement and a

1 document prepared and used by the municipality or county in
2 connection with a proposed agreement are available to the public
3 under Chapter 552, Government Code, only after the agreement is
4 ratified by the governing body of the municipality or county.

5 (b) This section does not affect the application of
6 Subchapter C, Chapter 552, Government Code, to a document prepared
7 and used by the municipality or county in connection with the
8 agreement.

9 Sec. 176.009. RATIFICATION AND ENFORCEABILITY OF
10 AGREEMENT. (a) An agreement under this chapter is enforceable and
11 binding on the public employer, the recognized association, and the
12 corrections officers covered by the agreement only if:

13 (1) the governing body of the municipality or county
14 ratified the agreement by a majority vote; and

15 (2) the recognized association ratified the agreement
16 by conducting a secret ballot election at which only the
17 corrections officers of the municipality or county or law
18 enforcement agency of the municipality or county in the association
19 were eligible to vote, and a majority of the votes cast at the
20 election favored ratifying the agreement.

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

26 (c) A state district court of a judicial district in which
27 the municipality or county is located has jurisdiction to hear and

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

8 Sec. 176.010. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

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

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

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