

By: Gallegos

S.B. No. 562

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
7 a 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 prohibits racial profiling and
24 provides for the termination of the employment of a peace officer
25 for a violation of the policy if the termination is based on just
26 cause;

27 (3) an open, fair, competitive, and equitable

1 promotion process;

2 (4) a hiring process designed to encourage the
3 application and recruitment of women and minorities; and

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

10 Sec. 145.005. GENERAL PROVISIONS RELATING TO AGREEMENTS.

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

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

26 Sec. 145.006. SELECTION OF PUBLIC EMPLOYER'S BARGAINING
27 COMMITTEE. (a) The public employer's chief executive officer or

1 the chief executive officer's designee shall select a group of
2 persons to represent the public employer as its sole and exclusive
3 bargaining agent for issues related to the employment of peace
4 officers by the municipality.

5 (b) The public employer's bargaining committee shall
6 include at least one member of the general public, appointed by the
7 governing body, and one member of the governing body.

8 (c) The public employer's bargaining committee must be
9 representative of the community to the extent that it is culturally
10 and ethnically diverse.

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

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

23 (c) After the initial agreement, the peace officer's
24 bargaining committee shall submit the names of its representatives
25 to the public employer before a meeting with the public employer's
26 bargaining committee under this chapter.

27 (d) The peace officer's bargaining committee shall make a

1 reasonable effort to include peace officers on the committee who
2 reflect the cultural and ethnic diversity of the law enforcement
3 agency and that represent the agency's divisions.

4 (e) In addition to the representatives selected by the
5 majority of peace officers to serve on the peace officer's
6 bargaining committee under Subsection (b), the committee shall
7 include additional representatives if the municipality has more
8 than one organization that represents the peace officers employed
9 by the municipality. Each organization is entitled to one
10 representative on the peace officer's bargaining committee if:

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

15 (2) the organization represents members who are
16 primarily African American, Hispanic, or Asian peace officers and
17 has a bona fide membership that includes at least 30 percent of the
18 peace officers in the represented class employed by the
19 municipality.

20 (f) The peace officer's bargaining committee shall fairly
21 represent all peace officers employed by the municipality
22 regardless of race, creed, color, ethnic background, national
23 origin, or affiliation of the peace officer with a particular labor
24 group or organization.

25 (g) The public employer shall recognize the selected peace
26 officer's bargaining committee until recognition of the
27 association is withdrawn by a majority of the peace officers

1 employed by the municipality, excluding employees exempt under
2 Section 145.008.

3 Sec. 145.008. EXEMPT EMPLOYEES. The following peace
4 officers are considered exempt and are not entitled to participate
5 in the selection of the peace officer's bargaining committee, serve
6 on the peace officer's bargaining committee, or vote in an election
7 to ratify an agreement:

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

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

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

14 Sec. 145.009. OPEN RECORDS. (a) A proposed agreement and
15 a document prepared and used by the municipality in connection with
16 a proposed agreement are available to the public under Chapter 552,
17 Government Code, only after the agreement is ratified by the
18 governing body of the municipality.

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

22 Sec. 145.010. RATIFICATION AND ENFORCEABILITY OF
23 AGREEMENT. (a) An agreement under this chapter is enforceable and
24 binding on the public employer, the recognized peace officer's
25 bargaining committee, and the peace officers covered by the
26 agreement only if:

27 (1) the governing body of the municipality ratified

1 the agreement by a majority vote; and

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

7 (b) A state district court of a judicial district in which
8 the municipality is located has jurisdiction to hear and resolve a
9 dispute under the ratified agreement on the application of a party
10 to the agreement aggrieved by an action or omission of the other
11 party when the action or omission is related to a right, duty, or
12 obligation provided by the agreement. The court may issue proper
13 restraining orders, temporary and permanent injunctions, or any
14 other writ, order, or process, including contempt orders, that are
15 appropriate to enforcing the agreement.

16 Sec. 145.011. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
17 A written agreement ratified under this chapter preempts, during
18 the term of the agreement and to the extent of any conflict, all
19 contrary state statutes, local ordinances, executive orders, civil
20 service provisions, or rules adopted by the head of the law
21 enforcement agency or municipality or by a division or agent of the
22 municipality, such as a personnel board or a civil service
23 commission.

24 Sec. 145.012. ELECTION TO REPEAL AGREEMENT. (a) Not later
25 than the 60th day after the date an agreement is ratified by the
26 public employer and the peace officer's bargaining committee, a
27 petition calling for the repeal of the agreement signed by a number

1 of registered voters who reside in the municipality equal to at
2 least 10 percent of the votes cast at the most recent general
3 election held in the municipality may be presented to the person
4 charged with ordering an election under Section 3.004, Election
5 Code.

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

8 (1) repeal the agreement; or

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

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

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

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