

By: Gallegos

S.B. No. 562

Substitute the following for S.B. No. 562:

By: Talton

C.S.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) an open, fair, competitive, and equitable  
24 promotion process;

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

27           (4) a prohibition against interfering with the right

1 of a person who is a member of the bargaining unit to pursue  
2 allegations of discrimination based on race, creed, color, national  
3 origin, religion, age, sex, or disability with the Commission on  
4 Human Rights or the federal Equal Employment Opportunity  
5 Commission.

6 Sec. 145.005. GENERAL PROVISIONS RELATING TO AGREEMENTS.

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

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

16 (c) This chapter does not require a public employer or a  
17 recognized peace officer's bargaining committee to meet and confer  
18 on any issue or reach an agreement.

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

22 Sec. 145.006. SELECTION OF PUBLIC EMPLOYER'S BARGAINING  
23 COMMITTEE. (a) The public employer's chief executive officer or  
24 the chief executive officer's designee shall select a group of  
25 persons to represent the public employer as its sole and exclusive  
26 bargaining agent for issues related to the employment of peace  
27 officers by the municipality.

1       (b) The public employer's bargaining committee must be  
2 representative of the community.

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

8       (b) A petition for recognition signed by a majority of the  
9 peace officers employed by the municipality, excluding the peace  
10 officers exempt under Section 145.008, shall designate by name at  
11 least five peace officers to serve on the peace officer's  
12 bargaining committee to represent the peace officers as the sole  
13 and exclusive bargaining agent on issues related to the employment  
14 of peace officers by the municipality.

15       (c) After the initial agreement, the peace officer's  
16 bargaining committee shall submit the names of its representatives  
17 to the public employer before a meeting with the public employer's  
18 bargaining committee under this chapter.

19       (d) The peace officer's bargaining committee shall make a  
20 reasonable effort to include peace officers on the committee who  
21 reflect the cultural and ethnic diversity of the law enforcement  
22 agency and that represent the agency's divisions.

23       (e) In addition to the representatives selected by the  
24 majority of peace officers to serve on the peace officer's  
25 bargaining committee under Subsection (b), the committee shall  
26 include additional representatives if the municipality has more  
27 than one organization that represents the peace officers employed

1 by the municipality. Each organization is entitled to one  
2 representative on the peace officer's bargaining committee if:

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

7 (2) the organization represents members who are  
8 primarily racial minority peace officers and has a bona fide  
9 membership that includes at least 30 percent of the peace officers  
10 in the represented class employed by the municipality.

11 (f) The peace officer's bargaining committee shall fairly  
12 represent all peace officers employed by the municipality  
13 regardless of race, creed, color, ethnic background, national  
14 origin, or affiliation of the peace officer with a particular labor  
15 group or organization.

16 (g) The public employer shall recognize the selected peace  
17 officer's bargaining committee until recognition of the  
18 association is withdrawn by a majority of the peace officers  
19 employed by the municipality, excluding employees exempt under  
20 Section 145.008.

21 Sec. 145.008. EXEMPT EMPLOYEES. The following peace  
22 officers are considered exempt and are not entitled to participate  
23 in the selection of the peace officer's bargaining committee, serve  
24 on the peace officer's bargaining committee, or vote in an election  
25 to ratify an agreement:

26 (1) the head of a law enforcement agency of the  
27 municipality;

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

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

5           Sec. 145.009. OPEN RECORDS. (a) A proposed agreement and a  
6 document prepared and used by the municipality in connection with a  
7 proposed agreement are available to the public under Chapter 552,  
8 Government Code, only after the agreement is ratified by the  
9 governing body of the municipality.

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

13           Sec. 145.010. RATIFICATION AND ENFORCEABILITY OF  
14 AGREEMENT. (a) An agreement under this chapter is enforceable and  
15 binding on the public employer, the recognized peace officer's  
16 bargaining committee, and the peace officers covered by the  
17 agreement only if:

18           (1) the governing body of the municipality ratified  
19 the agreement by a majority vote; and

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

25           (b) A state district court of a judicial district in which  
26 the municipality is located has jurisdiction to hear and resolve a  
27 dispute under the ratified agreement on the application of a party

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

7 Sec. 145.011. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

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

15 Sec. 145.012. ELECTION TO REPEAL AGREEMENT. (a) Not later  
16 than the 60th day after the date an agreement is ratified by the  
17 public employer and the peace officer's bargaining committee, a  
18 petition calling for the repeal of the agreement signed by a number  
19 of registered voters who reside in the municipality equal to at  
20 least 10 percent of the votes cast at the most recent general  
21 election held in the municipality may be presented to the person  
22 charged with ordering an election under Section 3.004, Election  
23 Code.

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

26 (1) repeal the agreement; or

27 (2) certify that it is not repealing the agreement and

1 call an election to determine whether to repeal the agreement.

2 (c) An election called under Subsection (b)(2) may be held  
3 as part of the next regularly scheduled general election of the  
4 municipality or at a special election called by the governing body  
5 of the municipality for that purpose. The ballot shall be printed  
6 to provide for voting for or against the proposition: "Repeal the  
7 agreement ratified on \_\_\_\_\_ (date agreement was ratified) by the  
8 \_\_\_\_\_ (name of the governing body of the municipality) and the peace  
9 officers employed by the \_\_\_\_\_ (name of public employer)  
10 concerning wages, salaries, rates of pay, hours of work, and other  
11 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.