

1-1 By: Gallegos S.B. No. 562
1-2 (In the Senate - Filed February 18, 2003; February 24, 2003,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; May 2, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 2, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 562 By: Gallegos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to conditions of employment for peace officers employed by
1-11 certain municipalities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle A, Title 5, Local Government Code, is
1-14 amended by adding Chapter 145 to read as follows:

1-15 CHAPTER 145. LOCAL CONTROL OF PEACE OFFICER EMPLOYMENT MATTERS IN
1-16 CERTAIN MUNICIPALITIES

1-17 Sec. 145.001. APPLICABILITY. (a) Except as provided by
1-18 Subsection (b), this chapter applies only to a municipality of this
1-19 state that has a population of 10,000 or more and has adopted
1-20 Chapter 143.

1-21 (b) This chapter does not apply to a municipality that:

1-22 (1) has adopted Chapter 174; or

1-23 (2) is covered by Subchapter H, I, or J, Chapter 143.

1-24 Sec. 145.002. DEFINITIONS. In this chapter:

1-25 (1) "Peace officer" means a person defined as a peace
1-26 officer by Article 2.12, Code of Criminal Procedure, or other law.

1-27 (2) "Peace officer's bargaining committee" means a
1-28 committee in which peace officers employed by a municipality of
1-29 this state participate and that exists for the purpose, in whole or
1-30 in part, of meeting and conferring with the municipality concerning
1-31 grievances, labor disputes, wages, rates of pay, hours of work, or
1-32 conditions of work affecting peace officers.

1-33 (3) "Public employer" means a municipality of this
1-34 state or a law enforcement agency of the municipality that is
1-35 required to establish the wages, salaries, rates of pay, hours of
1-36 work, working conditions, and other terms and conditions of
1-37 employment of peace officers employed by the municipality.

1-38 Sec. 145.003. STRIKES PROHIBITED. (a) A peace officer of
1-39 a municipality may not engage in a strike or organized work stoppage
1-40 against this state or the municipality.

1-41 (b) A peace officer who participates in a strike forfeits
1-42 any civil service rights, reemployment rights, and other rights,
1-43 benefits, or privileges the peace officer may have as a result of
1-44 the person's employment or prior employment with the municipality.

1-45 (c) This section does not affect the right of a person to
1-46 cease work if the person is not acting in concert with others in an
1-47 organized work stoppage.

1-48 Sec. 145.004. MANDATORY PROVISIONS RELATED TO AGREEMENTS.
1-49 An agreement ratified in accordance with this chapter shall
1-50 include:

1-51 (1) a process that provides for the review and
1-52 oversight of the law enforcement agency and peace officers employed
1-53 by the municipality by members of the public other than the elected
1-54 members of the governing body of the municipality;

1-55 (2) a policy that prohibits racial profiling and
1-56 provides for the termination of the employment of a peace officer
1-57 for a violation of the policy if the termination is based on just
1-58 cause;

1-59 (3) an open, fair, competitive, and equitable
1-60 promotion process;

1-61 (4) a hiring process designed to encourage the
1-62 application and recruitment of women and minorities; and

1-63 (5) a prohibition against interfering with the right

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

2-6 Sec. 145.005. GENERAL PROVISIONS RELATING TO AGREEMENTS.

2-7 (a) A municipality may not be denied local control over the wages,
 2-8 salaries, rates of pay, hours of work, or other terms and conditions
 2-9 of employment to the extent the public employer and the peace
 2-10 officer's bargaining committee recognized as the sole and exclusive
 2-11 bargaining agent under Section 145.007 agree as provided by this
 2-12 chapter. Applicable statutes and applicable local orders,
 2-13 ordinances, and civil service rules apply to an issue not governed
 2-14 by the agreement.

2-15 (b) An agreement under this chapter must be written.

2-16 (c) This chapter does not require a public employer or a
 2-17 recognized peace officer's bargaining committee to meet and confer
 2-18 on any issue or reach an agreement.

2-19 (d) A public employer and the recognized peace officer's
 2-20 bargaining committee may meet and confer only if the committee does
 2-21 not advocate an illegal strike by public employees.

2-22 Sec. 145.006. SELECTION OF PUBLIC EMPLOYER'S BARGAINING
 2-23 COMMITTEE. (a) The public employer's chief executive officer or
 2-24 the chief executive officer's designee shall select a group of
 2-25 persons to represent the public employer as its sole and exclusive
 2-26 bargaining agent for issues related to the employment of peace
 2-27 officers by the municipality.

2-28 (b) The public employer's bargaining committee shall
 2-29 include at least one member of the general public, appointed by the
 2-30 governing body, and one member of the governing body.

2-31 (c) The public employer's bargaining committee must be
 2-32 representative of the community to the extent that it is culturally
 2-33 and ethnically diverse.

2-34 Sec. 145.007. RECOGNITION OF PEACE OFFICER'S BARGAINING
 2-35 COMMITTEE. (a) In a municipality that chooses to meet and confer
 2-36 under this chapter, the public employer shall recognize a peace
 2-37 officer's bargaining committee selected in accordance with this
 2-38 section.

2-39 (b) A petition for recognition signed by a majority of the
 2-40 peace officers employed by the municipality, excluding the peace
 2-41 officers exempt under Section 145.008, shall designate by name at
 2-42 least five peace officers to serve on the peace officer's
 2-43 bargaining committee to represent the peace officers as the sole
 2-44 and exclusive bargaining agent on issues related to the employment
 2-45 of peace officers by the municipality.

2-46 (c) After the initial agreement, the peace officer's
 2-47 bargaining committee shall submit the names of its representatives
 2-48 to the public employer before a meeting with the public employer's
 2-49 bargaining committee under this chapter.

2-50 (d) The peace officer's bargaining committee shall make a
 2-51 reasonable effort to include peace officers on the committee who
 2-52 reflect the cultural and ethnic diversity of the law enforcement
 2-53 agency and that represent the agency's divisions.

2-54 (e) In addition to the representatives selected by the
 2-55 majority of peace officers to serve on the peace officer's
 2-56 bargaining committee under Subsection (b), the committee shall
 2-57 include additional representatives if the municipality has more
 2-58 than one organization that represents the peace officers employed
 2-59 by the municipality. Each organization is entitled to one
 2-60 representative on the peace officer's bargaining committee if:

2-61 (1) the organization is a labor organization listed
 2-62 under Section 501(c)(4) or (5), Internal Revenue Code of 1986, and
 2-63 has a bona fide membership that includes at least 30 percent of the
 2-64 peace officers employed by the municipality; or

2-65 (2) the organization represents members who are
 2-66 primarily African American, Hispanic, or Asian peace officers and
 2-67 has a bona fide membership that includes at least 30 percent of the
 2-68 peace officers in the represented class employed by the
 2-69 municipality.

3-1 (f) The peace officer's bargaining committee shall fairly
3-2 represent all peace officers employed by the municipality
3-3 regardless of race, creed, color, ethnic background, national
3-4 origin, or affiliation of the peace officer with a particular labor
3-5 group or organization.

3-6 (g) The public employer shall recognize the selected peace
3-7 officer's bargaining committee until recognition of the
3-8 association is withdrawn by a majority of the peace officers
3-9 employed by the municipality, excluding employees exempt under
3-10 Section 145.008.

3-11 Sec. 145.008. EXEMPT EMPLOYEES. The following peace
3-12 officers are considered exempt and are not entitled to participate
3-13 in the selection of the peace officer's bargaining committee, serve
3-14 on the peace officer's bargaining committee, or vote in an election
3-15 to ratify an agreement:

3-16 (1) the head of a law enforcement agency of the
3-17 municipality;

3-18 (2) any employee considered exempt under Chapter 143
3-19 if the municipality has adopted the chapter; or

3-20 (3) any other employee designated as exempt under an
3-21 agreement ratified in accordance with this chapter.

3-22 Sec. 145.009. OPEN RECORDS. (a) A proposed agreement and
3-23 a document prepared and used by the municipality in connection with
3-24 a proposed agreement are available to the public under Chapter 552,
3-25 Government Code, only after the agreement is ratified by the
3-26 governing body of the municipality.

3-27 (b) This section does not affect the application of
3-28 Subchapter C, Chapter 552, Government Code, to a document prepared
3-29 and used by the municipality in connection with the agreement.

3-30 Sec. 145.010. RATIFICATION AND ENFORCEABILITY OF
3-31 AGREEMENT. (a) An agreement under this chapter is enforceable and
3-32 binding on the public employer, the recognized peace officer's
3-33 bargaining committee, and the peace officers covered by the
3-34 agreement only if:

3-35 (1) the governing body of the municipality ratified
3-36 the agreement by a majority vote; and

3-37 (2) the recognized peace officer's bargaining
3-38 committee ratified the agreement by conducting a secret ballot
3-39 election of the peace officers of the municipality, excluding
3-40 employees exempt under Section 145.008, and a majority of the votes
3-41 cast at the election favored ratifying the agreement.

3-42 (b) A state district court of a judicial district in which
3-43 the municipality is located has jurisdiction to hear and resolve a
3-44 dispute under the ratified agreement on the application of a party
3-45 to the agreement aggrieved by an action or omission of the other
3-46 party when the action or omission is related to a right, duty, or
3-47 obligation provided by the agreement. The court may issue proper
3-48 restraining orders, temporary and permanent injunctions, or any
3-49 other writ, order, or process, including contempt orders, that are
3-50 appropriate to enforcing the agreement.

3-51 Sec. 145.011. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
3-52 A written agreement ratified under this chapter preempts, during
3-53 the term of the agreement and to the extent of any conflict, all
3-54 contrary state statutes, local ordinances, executive orders, civil
3-55 service provisions, or rules adopted by the head of the law
3-56 enforcement agency or municipality or by a division or agent of the
3-57 municipality, such as a personnel board or a civil service
3-58 commission.

3-59 Sec. 145.012. ELECTION TO REPEAL AGREEMENT. (a) Not later
3-60 than the 60th day after the date an agreement is ratified by the
3-61 public employer and the peace officer's bargaining committee, a
3-62 petition calling for the repeal of the agreement signed by a number
3-63 of registered voters who reside in the municipality equal to at
3-64 least 10 percent of the votes cast at the most recent general
3-65 election held in the municipality may be presented to the person
3-66 charged with ordering an election under Section 3.004, Election
3-67 Code.

3-68 (b) If a petition is presented under Subsection (a), the
3-69 governing body of the municipality shall:

