

1 AN ACT

2 relating to conditions of employment for police officers employed
3 by certain municipalities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 142, Local Government Code, is amended
6 by designating Sections 142.001-142.013 as Subchapter A and adding
7 a heading for Subchapter A to read as follows:

8 SUBCHAPTER A. GENERAL PROVISIONS

9 SECTION 2. Chapter 142, Local Government Code, is amended
10 by adding Subchapter B to read as follows:

11 SUBCHAPTER B. LOCAL CONTROL OF POLICE OFFICER EMPLOYMENT MATTERS

12 IN CERTAIN MUNICIPALITIES

13 Sec. 142.051. APPLICABILITY. (a) Except as provided by
14 Subsection (b), this subchapter applies only to a municipality:

15 (1) with a population of 50,000 or more; or

16 (2) that has adopted Chapter 143.

17 (b) This subchapter does not apply to a municipality that:

18 (1) has adopted Chapter 174;

19 (2) is covered by Subchapter H, I, or J, Chapter 143;

20 or

21 (3) has a population of one million or more and has not
22 adopted Chapter 143.

23 Sec. 142.052. DEFINITIONS. In this subchapter:

24 (1) "Police officer" means a person who is a peace

1 officer under Article 2.12, Code of Criminal Procedure, or other
2 law, and who is employed by a municipality.

3 (2) "Police officers association" means an employee
4 organization in which police officers employed by a municipality
5 participate that exists for the purpose, in whole or in part, of
6 dealing with the municipality or public employer concerning
7 grievances, labor disputes, wages, rates of pay, hours of work, or
8 conditions of work affecting police officers.

9 (3) "Public employer" means a municipality or a law
10 enforcement agency of the municipality that is required to
11 establish the wages, salaries, rates of pay, hours of work, working
12 conditions, and other terms and conditions of employment of police
13 officers employed by the municipality.

14 Sec. 142.053. PETITION FOR RECOGNITION: ELECTION OR ACTION
15 BY GOVERNING BODY. (a) Not later than the 30th day after the date
16 the governing body of a municipality receives from a police
17 officers association a petition signed by the majority of all
18 police officers, excluding the head of the law enforcement agency
19 for the municipality and excluding the employees exempt under
20 Section 142.058(b), that requests recognition of the association as
21 the sole and exclusive bargaining agent for all the police officers
22 employed by the municipality, excluding the head of the law
23 enforcement agency for the municipality and excluding the exempt
24 employees, the governing body shall:

25 (1) grant recognition of the association as requested
26 in the petition and determine by majority vote that a public
27 employer may meet and confer under this subchapter without

1 conducting an election by the voters in the municipality under
2 Section 142.055;

3 (2) defer granting recognition of the association and
4 order an election by the voters in the municipality under Section
5 142.055 regarding whether a public employer may meet and confer
6 under this subchapter; or

7 (3) order a certification election under Section
8 142.054 to determine whether the association represents a majority
9 of the affected police officers.

10 (b) If the governing body of a municipality orders a
11 certification election under Subsection (a)(3) and the association
12 named in the petition is certified to represent a majority of the
13 affected police officers of the municipality, the governing body
14 shall, not later than the 30th day after the date that results of
15 that election are certified:

16 (1) grant recognition of the association as requested
17 in the petition for recognition and determine by majority vote that
18 a public employer may meet and confer under this subchapter without
19 conducting an election by the voters in the municipality under
20 Section 142.055; or

21 (2) defer granting recognition of the association and
22 order an election by the voters in the municipality under Section
23 142.055 regarding whether a public employer may meet and confer
24 under this subchapter.

25 Sec. 142.054. CERTIFICATION ELECTION. (a) Except as
26 provided by Subsection (b), a certification election ordered under
27 Section 142.053(a)(3) to determine whether a police officers

1 association represents a majority of the covered police officers
2 shall be conducted according to procedures agreeable to the
3 parties.

4 (b) If the parties are unable to agree on procedures for the
5 certification election, either party may request the American
6 Arbitration Association to conduct the election and to certify the
7 results of the election.

8 (c) Certification of the results of an election under this
9 section resolves the question concerning representation.

10 (d) The association is liable for the expenses of the
11 certification election, except that if two or more associations
12 seeking recognition as the sole and exclusive bargaining agent
13 submit a petition signed by at least 30 percent of the police
14 officers eligible to sign the petition for recognition, all the
15 associations named in any petition shall share equally the costs of
16 the election.

17 Sec. 142.055. ELECTION TO AUTHORIZE OPERATING UNDER THIS
18 SUBCHAPTER. (a) The governing body of a municipality that receives
19 a petition for recognition under Section 142.053 may order an
20 election to determine whether a public employer may meet and confer
21 under this subchapter.

22 (b) An election ordered under this section must be held as
23 part of the next regularly scheduled general election for municipal
24 officials that is held after the date the governing body of the
25 municipality orders the election and that allows sufficient time to
26 prepare the ballot in compliance with other requirements of law.

27 (c) The ballot for an election ordered under this section

1 shall be printed to permit voting for or against the proposition:
2 "Authorizing _____ (name of the municipality) to operate under
3 the state law allowing a municipality to meet and confer and make
4 agreements with the association representing municipal police
5 officers as provided by state law, preserving the prohibition
6 against strikes and organized work stoppages, and providing
7 penalties for strikes and organized work stoppages."

8 (d) An election called under this section must be held and
9 the returns prepared and canvassed in conformity with the Election
10 Code.

11 (e) If an election authorized under this section is held,
12 the municipality may operate under the other provisions of this
13 subchapter only if a majority of the votes cast at the election
14 favor the proposition.

15 (f) If an election authorized under this section is held, an
16 association may not submit a petition for recognition to the
17 governing body of the municipality under Section 142.053 before the
18 second anniversary of the date of the election.

19 Sec. 142.056. CHANGE OR MODIFICATION OF RECOGNITION. (a)
20 The police officers may modify or change the recognition of the
21 association granted under this subchapter by filing with the
22 governing body of the municipality a petition signed by a majority
23 of all covered police officers.

24 (b) The governing body of the municipality may:

25 (1) recognize the change or modification as provided
26 by the petition; or

27 (2) order a certification election in accordance with

1 Section 142.054 regarding whether to do so.

2 Sec. 142.057. STRIKES PROHIBITED. (a) A police officer
3 employed by a municipality may not engage in a strike or organized
4 work stoppage against this state or the municipality.

5 (b) A police officer who participates in a strike forfeits
6 any civil service rights, reemployment rights, and other rights,
7 benefits, or privileges the police officer may have as a result of
8 the officer's employment or prior employment with the municipality.

9 (c) This section does not affect the right of a person to
10 cease work if the person is not acting in concert with others in an
11 organized work stoppage.

12 Sec. 142.058. RECOGNITION OF POLICE OFFICERS ASSOCIATION.

13 (a) A public employer in a municipality that chooses to meet and
14 confer under this subchapter shall recognize an association that is
15 recognized under Section 142.053 or 142.054 as the sole and
16 exclusive bargaining agent for the covered police officers
17 described in the petition for recognition, excluding the head of
18 the law enforcement agency and excluding the employees exempt under
19 Subsection (b), in accordance with this subchapter and the
20 petition.

21 (b) For the purposes of Subsection (a), exempt employees are
22 the employees appointed by the head of the law enforcement agency of
23 the municipality under Section 143.014 or that are exempt by the
24 mutual agreement of the recognized police officers association and
25 the public employer.

26 (c) The public employer shall recognize the police officers
27 association until recognition of the association is withdrawn, in

1 accordance with Section 142.056, by a majority of the police
2 officers eligible to sign a petition for recognition.

3 Sec. 142.059. GENERAL PROVISIONS RELATING TO AGREEMENTS.

4 (a) A municipality acting under this subchapter may not be denied
5 local control over the wages, salaries, rates of pay, hours of work,
6 or other terms and conditions of employment to the extent the public
7 employer and the police officers association recognized as the sole
8 and exclusive bargaining agent under this subchapter agree as
9 provided by this subchapter, if the agreement is ratified and not
10 withdrawn in accordance with this subchapter. Applicable statutes
11 and applicable local orders, ordinances, and civil service rules
12 apply to an issue not governed by the meet and confer agreement.

13 (b) A meet and confer agreement under this subchapter must
14 be written.

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

18 (d) A public employer and the recognized police officers
19 association may meet and confer only if the association does not
20 advocate an illegal strike by public employees.

21 (e) While a meet and confer agreement under this subchapter
22 between the public employer and the recognized police officers
23 association is in effect, the public employer may not accept a
24 petition, with regard to the police officers of the municipality
25 requesting an election to adopt:

26 (1) municipal civil service under Chapter 143; or

27 (2) collective bargaining under Chapter 174.

1 Sec. 142.060. SELECTION OF BARGAINING AGENT; BARGAINING
2 UNIT. (a) The public employer's chief executive officer or the
3 chief executive officer's designee shall select one or more persons
4 to represent the public employer as its sole and exclusive
5 bargaining agent to meet and confer on issues related to the wages,
6 hours of employment, and other terms and conditions of employment
7 of police officers by the municipality.

8 (b) A police officers association may designate one or more
9 persons to negotiate or bargain on the association's behalf.

10 (c) A municipality's bargaining unit is composed of all the
11 police officers of the municipality who are not the head of the law
12 enforcement agency or exempt under Section 142.058(b).

13 Sec. 142.061. PROTECTED RIGHTS OF POLICE OFFICER. (a) For
14 any disciplinary appeal, a member of the municipality's bargaining
15 unit may be represented by the police officers association or by any
16 person the member selects.

17 (b) A meet and confer agreement ratified under this
18 subchapter may not interfere with the right of a member of a
19 bargaining unit to pursue allegations of discrimination based on
20 race, creed, color, national origin, religion, age, sex, or
21 disability with the Texas Workforce Commission civil rights
22 division or the federal Equal Employment Opportunity Commission or
23 to pursue affirmative action litigation.

24 Sec. 142.062. OPEN RECORDS. (a) A proposed meet and confer
25 agreement and a document prepared and used by the municipality,
26 including a public employer, in connection with the proposed
27 agreement are available to the public under Chapter 552, Government

1 Code, only after the agreement is ready to be ratified by the
2 governing body of the municipality.

3 (b) This section does not affect the application of
4 Subchapter C, Chapter 552, Government Code, to a document prepared
5 and used in connection with the agreement.

6 Sec. 142.063. OPEN DELIBERATIONS. (a) Deliberations
7 relating to a meet and confer agreement or proposed agreement under
8 this subchapter between representatives of the public employer and
9 representatives of the police officers association elected by a
10 majority vote of the officers to be the sole and exclusive
11 bargaining agent of the covered officers must be open to the public
12 and comply with state law.

13 (b) Subsection (a) may not be construed to prohibit the
14 representatives of the public employer or the representatives of
15 the police officers association from conducting private caucuses
16 that are not open to the public during meet and confer negotiations.

17 Sec. 142.064. RATIFICATION AND ENFORCEABILITY OF
18 AGREEMENT. (a) An agreement under this subchapter is enforceable
19 and binding on the public employer, the recognized police officers
20 association, and the police officers covered by the meet and confer
21 agreement only if:

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

24 (2) the recognized police officers association
25 ratified the agreement by conducting a secret ballot election at
26 which the majority of the police officers who would be covered by
27 the agreement favored ratifying the agreement.

1 (b) A meet and confer agreement ratified as described by
2 Subsection (a) may establish a procedure by which the parties agree
3 to resolve disputes related to a right, duty, or obligation
4 provided by the agreement, including binding arbitration on a
5 question involving interpretation of the agreement.

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

15 Sec. 142.065. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
16 OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a
17 municipality that granted recognition of a police officers
18 association under Section 142.053 without conducting an election
19 under Section 142.055 may withdraw recognition of the association
20 by providing to the association not less than 90 days' written
21 notice that:

22 (1) the governing body is withdrawing recognition of
23 the association; and

24 (2) any agreement between the governing body and the
25 association will not be renewed.

26 (b) The governing body of a municipality that granted
27 recognition of a police officers association after conducting an

1 election under Section 142.055 may order an election to determine
2 whether a public employer may continue to meet and confer under this
3 subchapter. The governing body may not order an election under this
4 subsection until the second anniversary of the date of the election
5 under Section 142.055.

6 (c) An election ordered under Subsection (b) must be held
7 as part of the next regularly scheduled general election for
8 municipal officers that occurs after the date the governing body of
9 the municipality orders the election and that allows sufficient
10 time to prepare the ballot in compliance with other requirements of
11 law.

12 (d) The ballot for an election ordered under Subsection (b)
13 shall be printed to allow voting for or against the proposition:
14 "Authorizing _____ (name of the municipality) to continue to
15 operate under the state law allowing a municipality to meet and
16 confer and make agreements with the association representing
17 municipal police officers as provided by state law, preserving the
18 prohibition against strikes and organized work stoppages, and
19 providing penalties for strikes and organized work stoppages."

20 (e) An election ordered under Subsection (b) must be held
21 and the returns prepared and canvassed in conformity with the
22 Election Code.

23 (f) If an election ordered under Subsection (b) is held, the
24 municipality may continue to operate under this subchapter only if
25 a majority of the votes cast at the election favor the proposition.

26 (g) If an election ordered under Subsection (b) is held, an
27 association may not submit a petition for recognition to the

1 governing body of the municipality under Section 142.053 before the
2 second anniversary of the date of the election.

3 Sec. 142.066. ELECTION TO REPEAL AGREEMENT. (a) Not later
4 than the 60th day after the date a meet and confer agreement is
5 ratified by the governing body of the municipality and the
6 recognized police officers association, a petition calling for the
7 repeal of the agreement signed by a number of registered voters
8 residing in the municipality equal to at least 10 percent of the
9 votes cast at the most recent general election held in the
10 municipality may be presented to the person charged with ordering
11 an election under Section 3.004, Election Code.

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

14 (1) repeal the meet and confer agreement; or
15 (2) certify that it is not repealing the agreement and
16 call an election to determine whether to repeal the agreement.

17 (c) An election called under Subsection (b)(2) may be held
18 as part of the next regularly scheduled general election for the
19 municipality. The ballot shall be printed to provide for voting for
20 or against the proposition: "Repeal the meet and confer agreement
21 ratified on _____ (date agreement was ratified) by the _____
22 (name of the governing body of the municipality) and the police
23 officers employed by the City of _____ (name of municipality)
24 concerning wages, salaries, rates of pay, hours of work, and other
25 terms of employment."

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

1 Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

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

9 Sec. 142.068. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a)

10 This subchapter may not be construed as repealing any existing
11 benefit provided by statute or ordinance concerning police
12 officers' compensation, pensions, retirement plans, hours of work,
13 conditions of employment, or other emoluments, except as expressly
14 provided in a ratified meet and confer agreement. This subchapter
15 is in addition to the benefits provided by existing statutes and
16 ordinances.

17 (b) This subchapter may not be construed to interfere with a
18 police officer's constitutionally protected rights of freedom of
19 speech, freedom of association, and freedom to endorse or dissent
20 from any agreement.

21 SECTION 3. Section 143.3015, Local Government Code, is
22 amended by adding Subsection (i) to read as follows:

23 (i) Notwithstanding Subsections (a) and (h), a municipality
24 with a population of less than 560,000 that has not recognized an
25 association as the sole and exclusive bargaining agent as provided
26 by Section 143.304 before September 1, 2005, may adopt rules for
27 police officers converting vacation and sick leave days to hours

1 that supercede the provisions of Section 142.0013, Section 143.045,
2 and Section 143.046 provided that:

3 (A) A police officer is entitled to earn 120 hours of
4 vacation leave each year with pay, as a minimum, if the officer has
5 been regularly employed in the department or departments for at
6 least one year.

7 (B) In computing the length of time a police officer
8 may be absent from work on vacation leave, only those hours that the
9 person would have been required to work if not on vacation may be
10 counted as vacation leave.

11 (C) A police officer shall be granted the same number
12 of vacation hours and holiday hours, or hours in lieu of vacation
13 hours or holiday hours, granted to other municipal employees who
14 work the same number of hours in a regular work day and have worked
15 for the municipality for the same number of years.

16 (D) A police officer shall be granted sick leave with
17 pay accumulated at the rate of 4.61 hours for each full month
18 employed in a calendar year, so as to total 120 hours to the
19 person's credit each 12 months.

20 (E) A police officer who leaves the classified service
21 for any reason is entitled to receive in a lump-sum payment the full
22 amount of the person's salary for accumulated sick leave if the
23 person has accumulated not more than 720 hours of sick leave, the
24 person's employer may limit payment to the amount that the person
25 would have received if the person had been allowed to use 720 hours
26 of accumulated sick leave during the last six months of employment.
27 The lump-sum payment is computed by compensating the police officer

1 for the accumulated time at the highest permanent pay
2 classification for which the person was eligible during the last
3 six months of employment. The police officer is paid for the same
4 period for which the person had taken the sick leave but does not
5 include additional holidays and any sick leave or vacation time
6 that the person might have accrued during the 720 hours.

7 SECTION 4. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 304 was passed by the House on March 3, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 304 on May 18, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 304 was passed by the Senate, with amendments, on May 9, 2005, by the following vote: Yeas 24, Nays 6.

Secretary of the Senate

APPROVED: _____

Date

Governor