

By: Bailey

H.B. No. 466

A BILL TO BE ENTITLED

AN ACT

relating to conditions of employment for peace officers and detention officers employed by certain counties.

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

SECTION 1. Subtitle B, Title 5, Local Government Code, is amended by adding Chapter 161 to read as follows:

CHAPTER 161. LOCAL CONTROL OF PEACE OFFICER AND DETENTION OFFICER  
EMPLOYMENT MATTERS IN CERTAIN COUNTIES

Sec. 161.001. APPLICABILITY. (a) Except as provided by Subsection (b), this chapter applies only to a county with a population of 200,000 or more that employs peace officers or detention officers.

(b) This chapter does not apply to a county that has adopted Chapter 174.

Sec. 161.002. DEFINITIONS. In this chapter:

(1) "Association" means an employee organization in which peace officers or detention officers employed by a county participate and that exists for the purpose, in whole or in part, of dealing with the county or the head of any law enforcement agency of the county concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting peace officers or detention officers.

(2) "Detention officer" means a person employed by a county as a detention officer or jailer.

1           (3) "Peace officer" means a person who is a peace  
2 officer under Article 2.12, Code of Criminal Procedure, or other  
3 law and who is employed by a county.

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

9           Sec. 161.003. PETITION FOR RECOGNITION: ELECTION OR ACTION  
10 BY COUNTY COMMISSIONERS. (a) Not later than the 30th day after the  
11 date the commissioners court of a county receives a petition signed  
12 by the majority of all peace officers and detention officers,  
13 excluding the head of any law enforcement agency for the county and  
14 the employees exempt under Section 161.008(b), requesting  
15 recognition of an association or associations as the exclusive  
16 bargaining agent for the nonexempt peace officers or detention  
17 officers as described by Subsection (b), the commissioners court  
18 shall:

19           (1) grant recognition of the association or  
20 associations as requested in the petition and find that the public  
21 employers may meet and confer under this chapter without conducting  
22 an election by the voters in the county under Section 161.005;

23           (2) defer granting recognition of the association or  
24 associations and order an election by the voters in the county under  
25 Section 161.005 regarding whether the public employers may meet and  
26 confer under this chapter; or

27           (3) order a certification election under Section

1 161.004 to determine whether the association or associations  
2 represent a majority of the affected peace officers and detention  
3 officers.

4 (b) The petition described by Subsection (a) must state  
5 whether the petitioners request recognition of:

6 (1) one association to represent all peace officers  
7 and detention officers employed by the county, excluding the head  
8 of any law enforcement agency and the officers exempt under Section  
9 161.008(b); or

10 (2) two associations, with:

11 (A) one association to exclusively represent  
12 peace officers employed by any county law enforcement agency in a  
13 law enforcement position, excluding the head of any law enforcement  
14 agency and the officers exempt under Section 161.008(b); and

15 (B) one association to exclusively represent  
16 detention officers employed by a county law enforcement agency and  
17 peace officers employed by any county law enforcement agency in a  
18 position other than law enforcement, excluding the head of any law  
19 enforcement agency and the officers exempt under Section  
20 161.008(b).

21 (c) If the commissioners court orders a certification  
22 election under Subsection (a)(3) and the association or  
23 associations named in the petition are certified to represent a  
24 majority of the affected officers, the court shall, not later than  
25 the 30th day after the date that results of that election are  
26 certified:

27 (1) grant recognition of the association or

1 associations as requested in the petition for recognition and find  
2 that a public employer may meet and confer under this chapter  
3 without conducting an election by the voters in the county under  
4 Section 161.005; or

5 (2) defer granting recognition of the association or  
6 associations and order an election by the voters in the county under  
7 Section 161.005 regarding whether the public employers may meet and  
8 confer under this chapter.

9 Sec. 161.004. CERTIFICATION ELECTION. (a) Except as  
10 provided by Subsection (b), a certification election ordered under  
11 Section 161.003(a)(3) to determine whether an association or  
12 associations represent a majority of the covered peace officers and  
13 detention officers shall be conducted according to procedures  
14 agreeable to the parties.

15 (b) If the parties are unable to agree on procedures for the  
16 certification election, either party may request the American  
17 Arbitration Association to conduct the election and to certify the  
18 results of the election.

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

21 (d) The association or associations named in the petition  
22 are liable for the expenses of the certification election, except  
23 that if one or more other associations seeking recognition as the  
24 exclusive bargaining agent submit a petition signed by at least 30  
25 percent of the affected peace officers and detention officers  
26 eligible to sign the petition for recognition, all associations  
27 named in any petition shall share equally the costs of the election.

1       Sec. 161.005. ELECTION TO AUTHORIZE OPERATING UNDER THIS  
2 CHAPTER. (a) The commissioners court of a county that receives a  
3 petition for recognition under Section 161.003 may order an  
4 election to determine whether the public employers may meet and  
5 confer under this chapter.

6       (b) An election under this section must be held on the first  
7 authorized uniform election date prescribed by Chapter 41, Election  
8 Code, that occurs after the date the commissioners court orders the  
9 election and that allows sufficient time to comply with other  
10 requirements of law.

11       (c) The ballot for an election called under this section  
12 shall be printed to allow voting for or against the proposition:  
13 "Authorizing \_\_\_\_\_ (name of the county) to operate under  
14 the state law allowing the county to meet and confer and make  
15 agreements with the association or associations representing  
16 county peace officers and detention officers as provided by state  
17 law, preserving the prohibition against strikes and organized work  
18 stoppages, and providing penalties for strikes and organized work  
19 stoppages."

20       (d) An election called under this section shall be held and  
21 the returns prepared and canvassed in conformity with the Election  
22 Code.

23       (e) If an election authorized under this section is held,  
24 the county may operate under the other provisions of this chapter  
25 only if a majority of the votes cast at the election favor the  
26 proposition.

27       (f) If an election authorized under this section is held, an

1 association or associations may not submit a petition for  
2 recognition to the commissioners court of the county under Section  
3 161.003 before the first anniversary of the date of the election.

4 Sec. 161.006. CHANGE OR MODIFICATION OF RECOGNITION. (a)  
5 The peace officers or detention officers may modify or change the  
6 recognition of the association or associations granted under this  
7 chapter by filing with the commissioners court of the county a  
8 petition signed by a majority of all covered officers.

9 (b) The commissioners court may:

10 (1) recognize the change or modification as provided  
11 by the petition; or

12 (2) order a certification election in accordance with  
13 Section 161.004 regarding whether to do so.

14 Sec. 161.007. STRIKES PROHIBITED. (a) A peace officer or  
15 detention officer may not engage in a strike or organized work  
16 stoppage against this state or the county.

17 (b) A peace officer or detention officer who participates in  
18 a strike forfeits any civil service rights, reemployment rights,  
19 and other rights, benefits, or privileges the peace officer or  
20 detention officer may have as a result of the person's employment or  
21 prior employment with the county.

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

25 Sec. 161.008. RECOGNITION OF ASSOCIATION BY PUBLIC  
26 EMPLOYER. (a) A public employer in a county that chooses to meet  
27 and confer under this chapter shall recognize an association that

1 is recognized under Section 161.003 or 161.004 as the exclusive  
2 bargaining agent for the covered peace officers or detention  
3 officers under this chapter. The covered officers are the officers  
4 described in the applicable petition for recognition, but the  
5 covered officers do not include the head of any law enforcement  
6 agency or the employees exempt under Subsection (b).

7 (b) For the purposes of Subsection (a), exempt employees  
8 are:

9 (1) the sheriff and the employees that the sheriff  
10 designates as exempt in the manner prescribed by Subchapter B,  
11 Chapter 158, if the sheriff's department is operating under that  
12 subchapter, or that are exempt by the mutual agreement of the  
13 recognized association and the sheriff; and

14 (2) a constable and the employees that the constable  
15 designates as exempt in the manner that a sheriff may exempt  
16 employees under Subchapter B, Chapter 158, or that are exempt by the  
17 mutual agreement of the recognized association and the constable.

18 (c) The public employer shall recognize the association  
19 until recognition of the association is withdrawn by a majority of  
20 the peace officers and detention officers eligible to sign a  
21 petition for recognition, in accordance with Section 161.006.

22 Sec. 161.009. SELECTION OF BARGAINING AGENT; PUBLIC  
23 EMPLOYER BARGAINING TEAM. (a) Each public employer's chief  
24 executive officer or the chief executive officer's designee shall  
25 select one or more persons to represent the public employer as its  
26 exclusive bargaining agent to meet and confer on issues related to  
27 the wages, hours of employment, and other terms and conditions of

1 employment of peace officers and detention officers for whom the  
2 public employer is responsible. The sheriff is the public employer  
3 for employees of the sheriff's department. A constable is the  
4 public employer for employees of the constable's office.

5 (b) An association recognized under this chapter may  
6 designate one or more persons to negotiate or bargain on its behalf.

7 (c) The representatives of each public employer that has  
8 selected one or more persons under Subsection (a) form a bargaining  
9 team. The team may negotiate provisions applicable to all  
10 represented public employers. Appropriate representatives on the  
11 team may negotiate provisions applicable to only one public  
12 employer or to some but not all of the represented public employers.

13 Sec. 161.010. GENERAL PROVISIONS RELATING TO AGREEMENTS.

14 (a) A county may not be denied local control over the wages,  
15 salaries, rates of pay, hours of work, or other terms and conditions  
16 of employment to the extent a public employer that is a party to the  
17 agreement and an association recognized as an exclusive bargaining  
18 agent agree as provided by this chapter, if the agreement is  
19 ratified and not repealed under this chapter. Applicable statutes  
20 and applicable local orders, ordinances, and civil service rules  
21 apply to an issue not governed by the agreement.

22 (b) A meet and confer agreement under this chapter must be  
23 written.

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

27 (d) A public employer and a recognized association may meet



1 and confer only if the association does not advocate an illegal  
2 strike by public employees.

3 (e) An agreement may contain provisions designed to apply to  
4 only one public employer, to some but not all of the conferring  
5 public employers, or to all of the conferring public employers.

6 Sec. 161.011. OPEN RECORDS. (a) A proposed meet and confer  
7 agreement and a document prepared and used by the county or a public  
8 employer in connection with the proposed agreement are available to  
9 the public under Chapter 552, Government Code, only after the  
10 agreement is ratified by the commissioners court of the county.

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

14 Sec. 161.012. RATIFICATION AND ENFORCEABILITY OF  
15 AGREEMENT. (a) A meet and confer agreement under this chapter is  
16 enforceable and binding on the county, the sheriff, a constable,  
17 the applicable recognized association, and the peace officers or  
18 detention officers covered by the agreement only if:

19 (1) the commissioners court of the county ratified the  
20 agreement by a majority vote; and

21 (2) the applicable recognized association ratified  
22 the agreement by conducting a secret ballot election at which only  
23 the peace officers and detention officers that were represented by  
24 the association were eligible to vote, and a majority of the votes  
25 cast at the election favored ratifying the agreement.

26 (b) A meet and confer agreement ratified as described by  
27 Subsection (a) may establish a procedure by which the parties agree

1 to resolve disputes related to a right, duty, or obligation  
2 provided by the agreement, including binding arbitration on a  
3 question involving interpretation of the agreement.

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

13 Sec. 161.013. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.  
14 A written meet and confer agreement ratified under this chapter  
15 preempts, during the term of the agreement and to the extent of any  
16 conflict, all contrary state statutes, local ordinances, executive  
17 orders, civil service provisions, or rules adopted by the sheriff,  
18 a constable, or the county, or by a division or agent of the  
19 sheriff, a constable, or the county, such as a personnel board or a  
20 civil service commission.

21 Sec. 161.014. PROTECTED RIGHTS. (a) For any disciplinary  
22 appeal, a covered peace officer or detention officer may be  
23 represented by a recognized association or by any person chosen by  
24 the officer.

25 (b) A meet and confer agreement ratified under this chapter  
26 may not interfere with the right of a covered peace officer or  
27 detention officer to pursue allegations of discrimination based on

1 race, creed, color, national origin, religion, age, sex, or  
2 disability with the Texas Workforce Commission civil rights  
3 division or the federal Equal Employment Opportunity Commission or  
4 to pursue affirmative action litigation.

5 Sec. 161.015. ELECTION TO REPEAL AGREEMENT. (a) Not later  
6 than the 60th day after the date a meet and confer agreement is  
7 ratified by the commissioners court and a recognized association, a  
8 petition calling for the repeal of the agreement signed by at least  
9 10 percent of the registered voters residing in the county may be  
10 presented to the commissioners court.

11 (b) If a petition is presented under Subsection (a), the  
12 commissioners court shall order an election by the voters in the  
13 county to determine whether to repeal the meet and confer  
14 agreement.

15 (c) An election ordered under Subsection (b) shall be held  
16 as part of the next regularly scheduled general election for the  
17 county for which there remains sufficient time to add the question  
18 to the ballot. The ballot shall be printed to provide for voting  
19 for or against the proposition: "Repeal the meet and confer  
20 agreement ratified on \_\_\_\_\_ (date agreement was ratified) by the  
21 commissioners court and \_\_\_\_\_ (name of the association)  
22 concerning wages, salaries, rates of pay, hours of work, and other  
23 terms of employment of certain county \_\_\_\_\_ (peace officers or  
24 peace officers and detention officers, as applicable)."

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

27 (e) A public employer and a recognized association may not

H.B. No. 466

1 negotiate a new meet and confer agreement before the 181st day after  
2 the date a meet and confer agreement is repealed at an election  
3 under this section.

4 SECTION 2. This Act takes effect September 1, 2005.