

By: Naishtat

H.B. No. 1195

A BILL TO BE ENTITLED

AN ACT

relating to the conditions of employment for emergency medical services personnel employed by certain municipalities.

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

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

SUBCHAPTER A. GENERAL PROVISIONS

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

SUBCHAPTER B. LOCAL CONTROL OF EMERGENCY MEDICAL SERVICES

PERSONNEL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.051. APPLICABILITY. This subchapter applies only to a municipality:

(1) with a population of 460,000 or more that operates under a city manager form of government; and

(2) that employs emergency medical services personnel in a municipal department other than the fire department.

Sec. 142.052. DEFINITIONS. In this subchapter:

(1) "Association" means an organization in which emergency medical services personnel participate and that exists for the purpose, in whole or in part, of dealing with one or more public or private employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of

1 employment affecting public employees.

2 (2) "Emergency medical services personnel" has the
3 meaning assigned by Section 773.003, Health and Safety Code. The
4 term applies only to an individual certified under Chapter 773,
5 Health and Safety Code.

6 (3) "Public employer" means a municipality or an
7 agency, board, commission, or political subdivision controlled by a
8 municipality that is required to establish the wages, salaries,
9 rates of pay, hours of employment, working conditions, and other
10 terms and conditions of employment of public employees. The term,
11 under appropriate circumstances, may include a mayor, manager,
12 municipal administrator, municipal governing body, director of
13 personnel, personnel board, or one or more other officials,
14 regardless of the name by which an official is designated.

15 Sec. 142.053. GENERAL PROVISIONS RELATING TO AGREEMENTS.

16 (a) A municipality may not be denied local control over wages,
17 salaries, rates of pay, hours of employment, other terms and
18 conditions of employment, or other personnel issues on which the
19 public employer and an association that is recognized as the sole
20 and exclusive bargaining agent under Section 142.055 for all
21 emergency medical services personnel in the municipality agree. The
22 applicable statutes, local ordinances, and civil service rules
23 govern a term or condition of employment on which the public
24 employer and the association do not agree.

25 (b) An agreement under this subchapter must be written.

26 (c) This subchapter does not require the public employer and
27 an association to meet and confer or reach an agreement on any

1 issue.

2 Sec. 142.054. STRIKES PROHIBITED. (a) A public employer
3 and an association recognized as the sole and exclusive bargaining
4 agent under Section 142.055 may meet and confer only if the
5 association does not advocate the illegal right to strike by public
6 employees.

7 (b) Emergency medical services personnel of a municipality
8 may not engage in a strike or organized work stoppage against this
9 state or a political subdivision of this state.

10 (c) Emergency medical services personnel who participate in
11 a strike forfeit all civil service rights, reemployment rights, and
12 other rights, benefits, or privileges enjoyed as a result of
13 employment or previous employment with the municipality.

14 (d) This section does not affect the right of a person to
15 cease employment if the person is not acting in concert with other
16 emergency medical services personnel.

17 Sec. 142.055. RECOGNITION OF EMERGENCY MEDICAL SERVICES
18 PERSONNEL ASSOCIATION. A public employer may recognize an
19 association that submits a petition signed by a majority of the paid
20 emergency medical services personnel in the municipality,
21 excluding the head of the emergency medical services department and
22 assistant department heads in the rank or classification
23 immediately below that of the department head, as the sole and
24 exclusive bargaining agent for all of the covered emergency medical
25 services personnel until recognition of the association is
26 withdrawn by a majority of the covered emergency medical services
27 personnel.

1 Sec. 142.056. ELECTION. (a) Whether an association
2 represents a majority of the covered emergency medical services
3 personnel shall be resolved by a fair election, conducted according
4 to procedures agreed on by the parties, at which only a person
5 eligible to sign a petition under Section 142.055 may vote.

6 (b) If the parties are unable to agree on election
7 procedures under Subsection (a), a party may request the American
8 Arbitration Association to conduct the election and to certify the
9 results. Certification of the results of an election under this
10 subsection resolves the question concerning representation.

11 (c) The association shall pay the costs of an election under
12 this section, except that if two or more associations seeking
13 recognition as the bargaining agent submit petitions signed by a
14 majority of the covered emergency medical services personnel, the
15 associations shall share equally the costs of the election.

16 Sec. 142.057. SELECTION OF BARGAINING AGENTS. The public
17 employer's manager or chief executive, as appropriate, and the head
18 of the emergency medical services department shall designate a
19 group of persons to represent the public employer as its sole and
20 exclusive bargaining agent.

21 Sec. 142.058. OPEN RECORDS REQUIRED. (a) A proposed
22 agreement and any document prepared and used by the municipality in
23 connection with a proposed agreement are available to the public
24 under the public information law, Chapter 552, Government Code,
25 only after the agreement is ratified by the municipality's
26 governing body.

27 (b) This section does not affect the application of

1 Subchapter C, Chapter 552, Government Code, to a document prepared
2 and used by the municipality in connection with the agreement.

3 Sec. 142.059. RATIFICATION AND ENFORCEABILITY OF
4 AGREEMENT. (a) An agreement made under this subchapter between a
5 public employer and an association is binding on the public
6 employer, the association, and the emergency medical services
7 personnel covered by the agreement if:

8 (1) the municipality's governing body ratifies the
9 agreement by a majority vote; and

10 (2) the association recognized under Section 142.055
11 ratifies the agreement by a majority vote of its members voting in
12 an election by secret ballot at which only members of the
13 association who are eligible to sign a petition under Section
14 142.055 may vote.

15 (b) An agreement ratified as described by Subsection (a) may
16 establish a procedure by which the parties agree to resolve
17 disputes related to a right, duty, or obligation provided by the
18 agreement, including binding arbitration on interpretation of the
19 agreement.

20 (c) The state district court of the judicial district in
21 which the municipality is located has jurisdiction to hear and
22 resolve a dispute under the ratified agreement on the application
23 of a party to the agreement aggrieved by an act or omission of the
24 other party. The court may issue proper restraining orders,
25 temporary and permanent injunctions, or any other writ, order, or
26 process, including a contempt order, that is appropriate to enforce
27 the agreement.

Sec. 142.060. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

(a) An agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of employment, or other terms and conditions of employment to the extent of any conflict with the statute.

(b) An agreement under this subchapter preempts any contrary executive order, local ordinance, or rule adopted by this state or a political subdivision or agent of this state, including a personnel board, a civil service commission, or a municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority vote by secret ballot of the members of the association recognized under Section 142.055 at which only members of the association who are eligible to sign a petition under Section 142.055 may vote.

Sec. 142.061. REPEAL OF AGREEMENT BY ELECTORATE. (a) Not later than the 45th day after the date an agreement is ratified by both the municipality and the association, a petition signed by at least 10 percent of the qualified voters of the municipality may be presented to the municipal secretary calling for an election to repeal the agreement.

(b) On receipt by the municipal secretary of a petition described by Subsection (a), the governing body of the municipality shall reconsider the agreement and either repeal the agreement or call an election of the qualified voters of the municipality to determine if the voters favor repealing the agreement. The election shall be called for the next election held in the

1 municipality that allows sufficient time to comply with applicable
2 provisions of law or at a special election called by the governing
3 body for that purpose.

4 (c) If at the election a majority of the votes cast favor
5 repeal of the adoption of the agreement, the agreement is void.

6 (d) The ballot for an election under this section shall be
7 printed to permit voting for or against the proposition: "Repeal of
8 the adoption of the agreement ratified by the municipality and the
9 emergency medical services personnel association concerning wages,
10 salaries, rates of pay, hours of employment, and other terms and
11 conditions of employment."

12 Sec. 142.062. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES.

13 (a) For the purpose of any disciplinary appeal, a member of the
14 association may choose to be represented by any person of the
15 member's choice or by the association.

16 (b) An agreement may not interfere with the right of a
17 member of the association to pursue allegations of discrimination
18 based on race, creed, color, national origin, religion, age, sex,
19 or disability with the civil rights division of the Texas Workforce
20 Commission or the federal Equal Employment Opportunity Commission
21 or to pursue affirmative action litigation.

22 Sec. 142.063. BINDING INTEREST ARBITRATION. (a) A
23 municipality may be required to submit to binding interest
24 arbitration only if approved by a majority of those voting in a
25 public referendum conducted in accordance with the municipality's
26 charter.

27 (b) Subsection (a) does not affect any disciplinary

1 arbitration or arbitration provision in a ratified agreement.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2005.