

By: Luna

H.B. No. 3322

A BILL TO BE ENTITLED

AN ACT

relating to the right of certain municipalities to maintain local control over wages, hours, and other terms and conditions of employment.

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

SECTION 1. The heading of Chapter 143, Local Government Code, is amended to read as follows:

CHAPTER 143. MUNICIPAL CIVIL SERVICE FOR FIREFIGHTERS AND POLICE OFFICERS

SECTION 2. Subtitle A, Title 5, Local Government Code, is amended by adding Chapter 146 to read as follows:

CHAPTER 146. LOCAL CONTROL OF MUNICIPAL EMPLOYMENT MATTERS

Sec. 146.001. APPLICABILITY. This chapter does not apply to:

(1) firefighters or police officers who are covered by Subchapter H, I, or J of Chapter 143 or by Chapter 174; or

(2) an employee association in which those employees participate.

Sec. 146.002. DEFINITIONS. In this chapter:

(1) "Bargaining unit" means any group of employees designated by the municipality for negotiations between a recognized employee association and the public employer.

(2) "Employee association" means an organization in which municipal employees participate and that exists for the

1 purpose, wholly or partly, of dealing with one or more employers,
2 whether public or private, concerning grievances, labor disputes,
3 wages, rates of pay, hours of employment, or conditions of work
4 affecting public employees.

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

14 Sec. 146.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
15 RECOGNITION. (a) A municipality may not be denied local control
16 over the wages, salaries, rates of pay, hours of work, other terms
17 and conditions of employment, affirmative action programs, or other
18 state-mandated personnel issues. A public employer may enter into
19 a mutual written agreement governing these issues with an employee
20 association that does not advocate the illegal right to strike by
21 municipal employees.

22 (b) A municipality may recognize an employee association
23 that does not advocate the illegal right to strike by municipal
24 employees as the negotiating agent for any group of municipal
25 employees so requesting that representation under this chapter.

26 Sec. 146.004. STRIKES PROHIBITED. (a) Employees of a
27 municipality may not engage in strikes or organized work stoppages

1 against the state or a municipality of the state.

2 (b) An employee who participates in a strike forfeits all
3 civil service rights, reemployment rights, and any other rights,
4 benefits, or privileges the employee enjoys as a result of
5 employment or prior employment, except that the right of an
6 individual to cease work may not be abridged if the individual is
7 not acting in concert with others in an organized work stoppage.

8 Sec. 146.005. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A
9 public employer may recognize an employee association as the sole
10 and exclusive negotiating agent for a bargaining unit, regardless
11 of whether the public employer has recognized the employee
12 association under Subsection (b).

13 (b) An employee association selected by a petition signed by
14 a majority of the employees of the municipality, excluding
15 department directors, may be recognized by the public employer as
16 the sole and exclusive negotiating agent for all of the covered
17 employees unless and until recognition of the association is
18 withdrawn by a majority of those employees.

19 Sec. 146.006. ELECTION. (a) In the event of a question
20 about whether an employee association is the majority
21 representative of the covered employees, the question shall be
22 resolved by a fair election conducted according to procedures
23 agreeable to the parties.

24 (b) If the parties are unable to agree on the procedures, a
25 party may request the American Arbitration Association to conduct
26 the elections and to certify the results. Certification of the
27 results of an election resolves the question concerning

1 representation.

2 (c) The employee association is liable for the expenses of
3 the election, except that if two or more associations seeking
4 recognition as the negotiating agent submit petitions signed by a
5 majority of the covered employees, the associations shall share
6 equally the costs of the election.

7 Sec. 146.007. OPEN MEETINGS REQUIRED. All meetings
8 relating to an agreement between an employee association and a
9 public employer shall be open to the public as required by Chapter
10 551, Government Code.

11 Sec. 146.008. ENFORCEABILITY OF AGREEMENT. (a) A written
12 agreement made under this chapter between a public employer and an
13 employee association is enforceable and binding on the public
14 employer, the employee association, and the public employees
15 covered by the agreement if:

16 (1) the governing body of the municipality ratifies
17 the agreement by majority vote; and

18 (2) the employee association ratifies the agreement by
19 a majority vote of the members of the bargaining unit by secret
20 ballot.

21 (b) The state district court of the judicial district in
22 which the municipality is located has jurisdiction over the
23 application of either party aggrieved by an action or omission of
24 the other party if the action or omission relates to the rights,
25 duties, or obligations provided by this chapter. The court may
26 issue proper restraining orders, temporary and permanent
27 injunctions, and any other writs, orders, or processes, including

1 contempt orders, that are appropriate to enforcing this chapter.

2 Sec. 146.009. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

3 (a) A written agreement under this chapter between a public
4 employer and an employee association supersedes a previous statute
5 concerning wages, salaries, rates of pay, hours of work, and other
6 terms and conditions of employment to the extent of any conflict
7 with the previous statute.

8 (b) A written agreement under this chapter preempts all
9 contrary local ordinances, executive orders, legislation, or rules
10 adopted by this state or a political subdivision or agent of this
11 state such as a personnel board, a civil service commission, or a
12 home-rule municipality.

13 SECTION 3. This Act takes effect September 1, 2005.