

By: Barrientos

S.B. No. 706

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 through 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. PETITION FOR RECOGNITION: ELECTION OR ACTION
16 BY GOVERNING BODY. (a) Not later than the 30th day after the date
17 the governing body of a municipality receives from an association a
18 petition signed by the majority of all emergency medical services
19 personnel, excluding the head of the emergency medical services
20 department for the municipality and the other employees excluded
21 under Section 142.058, that requests recognition of the association
22 as the sole and exclusive bargaining agent for all the emergency
23 medical services personnel employed by the municipality other than
24 the excluded employees, the governing body may:

25 (1) conditionally recognize the association and order
26 an election by the voters in the municipality under Section 142.055
27 regarding whether a public employer may meet and confer under this

1 subchapter; or

2 (2) if more than one association submits a valid
3 petition for recognition, order a certification election under
4 Section 142.054 to determine whether the association represents a
5 majority of the affected emergency medical services personnel.

6 (b) If the governing body of a municipality orders a
7 certification election under Subsection (a)(2) and the association
8 named in the petition is certified to represent a majority of the
9 affected emergency medical services personnel, the governing body
10 may, not later than the 30th day after the date that results of that
11 election are certified, order an election by the voters in the
12 municipality under Section 142.055 regarding whether a public
13 employer may meet and confer under this subchapter.

14 Sec. 142.054. CERTIFICATION ELECTION. (a) Except as
15 provided by Subsection (b), a certification election ordered under
16 Section 142.053(a)(2) to determine whether an association
17 represents a majority of the covered emergency medical services
18 personnel shall be conducted according to procedures agreeable to
19 the parties.

20 (b) If the parties are unable to agree on procedures for the
21 certification election, either party may request the American
22 Arbitration Association to conduct the election and to certify the
23 results of the election.

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

26 (d) Each association named in the valid petitions shall
27 share equally the costs of the election.

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

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

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

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

22 (e) The municipality may operate under the other provisions
23 of this subchapter only if a majority of the votes cast at the
24 election favor the proposition.

25 (f) If an election authorized under this section is held, an
26 association may not submit a petition for recognition to the
27 governing body of the municipality under Section 142.053 before the

1 first anniversary of the date of the election.

2 Sec. 142.056. GENERAL PROVISIONS RELATING TO AGREEMENTS.

3 (a) A municipality authorized to operate under this subchapter may
4 not be denied local control over wages, salaries, rates of pay,
5 hours of employment, other terms and conditions of employment, or
6 other personnel issues on which the public employer and an
7 association that is recognized as the sole and exclusive bargaining
8 agent under Section 142.053(a)(1) or 142.054 for all covered
9 emergency medical services personnel in the municipality agree.
10 The applicable statutes, local ordinances, and civil service rules
11 govern a term or condition of employment on which the public
12 employer and the association do not agree.

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

14 (c) This subchapter does not require the public employer and
15 an association to meet and confer or reach an agreement on any
16 issue.

17 Sec. 142.057. STRIKES PROHIBITED. (a) A public employer
18 and an association recognized as the sole and exclusive bargaining
19 agent under Section 142.053(a)(1) or 142.054 may meet and confer
20 only if the association does not advocate the illegal right to
21 strike by public employees.

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

25 (c) Emergency medical services personnel who participate in
26 a strike forfeit all civil service rights, reemployment rights, and
27 other rights, benefits, or privileges enjoyed as a result of

1 employment or previous employment with the municipality.

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

5 Sec. 142.058. WITHDRAWAL OF RECOGNITION OF EMERGENCY
6 MEDICAL SERVICES PERSONNEL ASSOCIATION. A public employer in a
7 municipality that chooses to meet and confer under this subchapter
8 shall recognize an association that is recognized under Section
9 142.053(a)(1) or 142.054 by a majority of the paid emergency
10 medical services personnel in the municipality, excluding the head
11 of the emergency medical services department and assistant
12 department heads in the rank or classification immediately below
13 that of the department head, as the sole and exclusive bargaining
14 agent for all of the covered emergency medical services personnel
15 until recognition of the association is withdrawn by a majority of
16 the covered emergency medical services personnel.

17 Sec. 142.059. SELECTION OF BARGAINING AGENTS. The public
18 employer's manager or chief executive, as appropriate, and the head
19 of the emergency medical services department shall designate a
20 group of persons to represent the public employer as its sole and
21 exclusive bargaining agent.

22 Sec. 142.060. OPEN RECORDS REQUIRED. (a) A proposed
23 agreement and any document prepared and used by the municipality in
24 connection with a proposed agreement are available to the public
25 under the public information law, Chapter 552, Government Code,
26 only after the agreement is ratified by the municipality's
27 governing body.

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

4 Sec. 142.061. RATIFICATION AND ENFORCEABILITY OF
5 AGREEMENT. (a) An agreement made under this subchapter between a
6 public employer and an association is binding on the public
7 employer, the association, and the emergency medical services
8 personnel covered by the agreement if:

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

11 (2) the association recognized under Section
12 142.053(a)(1) or 142.054 ratifies the agreement by a majority vote
13 of its members voting in an election by secret ballot at which only
14 members of the association who are eligible to sign a petition under
15 Section 142.053 may vote.

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

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

1 the agreement.

2 Sec. 142.062. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

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

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

11 (c) An agreement under this subchapter may not diminish or
12 qualify any right, benefit, or privilege of an employee under this
13 chapter or other law unless approved by a majority vote by secret
14 ballot of the members of the association recognized under Section
15 142.053(a)(1) or 142.054 at which only members of the association
16 who are eligible to sign a petition under Section 142.053 may vote.

17 Sec. 142.063. REPEAL OF AGREEMENT BY ELECTORATE. (a) Not
18 later than the 45th day after the date an agreement is ratified by
19 both the municipality and the association, a petition signed by at
20 least 10 percent of the qualified voters of the municipality may be
21 presented to the municipal secretary calling for an election to
22 repeal the agreement.

23 (b) On receipt by the municipal secretary of a petition
24 described by Subsection (a), the governing body of the municipality
25 shall reconsider the agreement and either repeal the agreement or
26 call an election of the qualified voters of the municipality to
27 determine if the voters favor repealing the agreement. The

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

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

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

13 Sec. 142.064. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES.

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

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

23 Sec. 142.065. BINDING INTEREST ARBITRATION. (a) A

24 municipality may be required to submit to binding interest
25 arbitration only if approved by a majority of those voting in a
26 public referendum conducted in accordance with the municipality's
27 charter.

1 (b) Subsection (a) does not affect any disciplinary
2 arbitration or arbitration provision in a ratified agreement.

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