

1-1 By: Barrientos S.B. No. 706  
1-2 (In the Senate - Filed February 24, 2005; March 2, 2005,  
1-3 read first time and referred to Committee on Intergovernmental  
1-4 Relations; April 4, 2005, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 April 4, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 706 By: Deuell

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the conditions of employment for emergency medical  
1-11 services personnel employed by certain municipalities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 142, Local Government Code, is amended  
1-14 by designating Sections 142.001 through 142.013 as Subchapter A and  
1-15 adding a heading for Subchapter A to read as follows:

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 SECTION 2. Chapter 142, Local Government Code, is amended  
1-18 by adding Subchapter B to read as follows:

1-19 SUBCHAPTER B. LOCAL CONTROL OF EMERGENCY MEDICAL SERVICES

1-20 PERSONNEL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

1-21 Sec. 142.051. APPLICABILITY. This subchapter applies only  
1-22 to a municipality:

1-23 (1) with a population of 460,000 or more that operates  
1-24 under a city manager form of government; and

1-25 (2) that employs emergency medical services personnel  
1-26 in a municipal department other than the fire department.

1-27 Sec. 142.052. DEFINITIONS. In this subchapter:

1-28 (1) "Association" means an organization in which  
1-29 emergency medical services personnel participate and that exists  
1-30 for the purpose, in whole or in part, of dealing with one or more  
1-31 public or private employers concerning grievances, labor disputes,  
1-32 wages, rates of pay, hours of employment, or conditions of  
1-33 employment affecting public employees.

1-34 (2) "Emergency medical services personnel" has the  
1-35 meaning assigned by Section 773.003, Health and Safety Code. The  
1-36 term applies only to an individual certified under Chapter 773,  
1-37 Health and Safety Code.

1-38 (3) "Public employer" means a municipality or an  
1-39 agency, board, commission, or political subdivision controlled by a  
1-40 municipality that is required to establish the wages, salaries,  
1-41 rates of pay, hours of employment, working conditions, and other  
1-42 terms and conditions of employment of public employees. The term,  
1-43 under appropriate circumstances, may include a mayor, manager,  
1-44 municipal administrator, municipal governing body, director of  
1-45 personnel, personnel board, or one or more other officials,  
1-46 regardless of the name by which an official is designated.

1-47 Sec. 142.053. PETITION FOR RECOGNITION: ELECTION OR ACTION  
1-48 BY GOVERNING BODY. (a) Not later than the 30th day after the date  
1-49 the governing body of a municipality receives from an association a  
1-50 petition signed by the majority of all emergency medical services  
1-51 personnel, excluding the head of the emergency medical services  
1-52 department for the municipality and the other employees excluded  
1-53 under Section 142.058, that requests recognition of the association  
1-54 as the sole and exclusive bargaining agent for all the emergency  
1-55 medical services personnel employed by the municipality other than  
1-56 the excluded employees, the governing body may:

1-57 (1) conditionally recognize the association and order  
1-58 an election by the voters in the municipality under Section 142.055  
1-59 regarding whether a public employer may meet and confer under this  
1-60 subchapter; or

1-61 (2) if more than one association submits a valid  
1-62 petition for recognition, order a certification election under  
1-63 Section 142.054 to determine whether the association represents a

majority of the affected emergency medical services personnel.

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

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

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

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

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

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

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

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

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

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

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

Sec. 142.056. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) A municipality authorized to operate under this subchapter may not be denied local control over wages, salaries, rates of pay, hours of employment, other terms and conditions of employment, or other personnel issues on which the public employer and an association that is recognized as the sole and exclusive bargaining agent under Section 142.053(a)(1) or 142.054 for all covered emergency medical services personnel in the municipality agree. The applicable statutes, local ordinances, and civil service rules govern a term or condition of employment on which the public employer and the association do not agree.

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

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

Sec. 142.057. STRIKES PROHIBITED. (a) A public employer and an association recognized as the sole and exclusive bargaining agent under Section 142.053(a)(1) or 142.054 may meet and confer

3-1 only if the association does not advocate the illegal right to  
 3-2 strike by public employees.

3-3 (b) Emergency medical services personnel of a municipality  
 3-4 may not engage in a strike or organized work stoppage against this  
 3-5 state or a political subdivision of this state.

3-6 (c) Emergency medical services personnel who participate in  
 3-7 a strike forfeit all civil service rights, reemployment rights, and  
 3-8 other rights, benefits, or privileges enjoyed as a result of  
 3-9 employment or previous employment with the municipality.

3-10 (d) This section does not affect the right of a person to  
 3-11 cease employment if the person is not acting in concert with other  
 3-12 emergency medical services personnel.

3-13 Sec. 142.058. WITHDRAWAL OF RECOGNITION OF EMERGENCY  
 3-14 MEDICAL SERVICES PERSONNEL ASSOCIATION. A public employer in a  
 3-15 municipality that chooses to meet and confer under this subchapter  
 3-16 shall recognize an association that is recognized under Section  
 3-17 142.053(a)(1) or 142.054 by a majority of the paid emergency  
 3-18 medical services personnel in the municipality, excluding the head  
 3-19 of the emergency medical services department and assistant  
 3-20 department heads in the rank or classification immediately below  
 3-21 that of the department head, as the sole and exclusive bargaining  
 3-22 agent for all of the covered emergency medical services personnel  
 3-23 until recognition of the association is withdrawn by a majority of  
 3-24 the covered emergency medical services personnel.

3-25 Sec. 142.059. SELECTION OF BARGAINING AGENTS. The public  
 3-26 employer's manager or chief executive, as appropriate, and the head  
 3-27 of the emergency medical services department shall designate a  
 3-28 group of persons to represent the public employer as its sole and  
 3-29 exclusive bargaining agent.

3-30 Sec. 142.060. OPEN RECORDS REQUIRED. (a) A proposed  
 3-31 agreement and any document prepared and used by the municipality in  
 3-32 connection with a proposed agreement are available to the public  
 3-33 under the public information law, Chapter 552, Government Code,  
 3-34 only after the agreement is ratified by the municipality's  
 3-35 governing body.

3-36 (b) This section does not affect the application of  
 3-37 Subchapter C, Chapter 552, Government Code, to a document prepared  
 3-38 and used by the municipality in connection with the agreement.

3-39 Sec. 142.061. RATIFICATION AND ENFORCEABILITY OF  
 3-40 AGREEMENT. (a) An agreement made under this subchapter between a  
 3-41 public employer and an association is binding on the public  
 3-42 employer, the association, and the emergency medical services  
 3-43 personnel covered by the agreement if:

3-44 (1) the municipality's governing body ratifies the  
 3-45 agreement by a majority vote; and

3-46 (2) the association recognized under Section  
 3-47 142.053(a)(1) or 142.054 ratifies the agreement by a majority vote  
 3-48 of its members voting in an election by secret ballot at which only  
 3-49 members of the association who are eligible to sign a petition under  
 3-50 Section 142.053 may vote.

3-51 (b) An agreement ratified as described by Subsection (a) may  
 3-52 establish a procedure by which the parties agree to resolve  
 3-53 disputes related to a right, duty, or obligation provided by the  
 3-54 agreement, including binding arbitration on interpretation of the  
 3-55 agreement.

3-56 (c) The state district court of the judicial district in  
 3-57 which the municipality is located has jurisdiction to hear and  
 3-58 resolve a dispute under the ratified agreement on the application  
 3-59 of a party to the agreement aggrieved by an act or omission of the  
 3-60 other party. The court may issue proper restraining orders,  
 3-61 temporary and permanent injunctions, or any other writ, order, or  
 3-62 process, including a contempt order, that is appropriate to enforce  
 3-63 the agreement.

3-64 Sec. 142.062. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

3-65 (a) An agreement under this subchapter supersedes a previous  
 3-66 statute concerning wages, salaries, rates of pay, hours of  
 3-67 employment, or other terms and conditions of employment to the  
 3-68 extent of any conflict with the statute.

3-69 (b) An agreement under this subchapter preempts any

4-1 contrary executive order, local ordinance, or rule adopted by this  
4-2 state or a political subdivision or agent of this state, including a  
4-3 personnel board, a civil service commission, or a municipality.

4-4 (c) An agreement under this subchapter may not diminish or  
4-5 qualify any right, benefit, or privilege of an employee under this  
4-6 chapter or other law unless approved by a majority vote by secret  
4-7 ballot of the members of the association recognized under Section  
4-8 142.053(a)(1) or 142.054 at which only members of the association  
4-9 who are eligible to sign a petition under Section 142.053 may vote.

4-10 Sec. 142.063. REPEAL OF AGREEMENT BY ELECTORATE. (a) Not  
4-11 later than the 45th day after the date an agreement is ratified by  
4-12 both the municipality and the association, a petition signed by at  
4-13 least 10 percent of the qualified voters of the municipality may be  
4-14 presented to the municipal secretary calling for an election to  
4-15 repeal the agreement.

4-16 (b) On receipt by the municipal secretary of a petition  
4-17 described by Subsection (a), the governing body of the municipality  
4-18 shall reconsider the agreement and either repeal the agreement or  
4-19 call an election of the qualified voters of the municipality to  
4-20 determine if the voters favor repealing the agreement. The  
4-21 election shall be called for the next election held in the  
4-22 municipality that allows sufficient time to comply with applicable  
4-23 provisions of law or at a special election called by the governing  
4-24 body for that purpose.

4-25 (c) If at the election a majority of the votes cast favor  
4-26 repeal of the adoption of the agreement, the agreement is void.

4-27 (d) The ballot for an election under this section shall be  
4-28 printed to permit voting for or against the proposition: "Repeal of  
4-29 the adoption of the agreement ratified by the municipality and the  
4-30 emergency medical services personnel association concerning wages,  
4-31 salaries, rates of pay, hours of employment, and other terms and  
4-32 conditions of employment."

4-33 Sec. 142.064. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES.  
4-34 (a) For the purpose of any disciplinary appeal, a member of the  
4-35 association may choose to be represented by any person of the  
4-36 member's choice or by the association.

4-37 (b) An agreement may not interfere with the right of a  
4-38 member of the association to pursue allegations of discrimination  
4-39 based on race, creed, color, national origin, religion, age, sex,  
4-40 or disability with the civil rights division of the Texas Workforce  
4-41 Commission or the federal Equal Employment Opportunity Commission  
4-42 or to pursue affirmative action litigation.

4-43 Sec. 142.065. BINDING INTEREST ARBITRATION. (a) A  
4-44 municipality may be required to submit to binding interest  
4-45 arbitration only if approved by a majority of those voting in a  
4-46 public referendum conducted in accordance with the municipality's  
4-47 charter.

4-48 (b) Subsection (a) does not affect any disciplinary  
4-49 arbitration or arbitration provision in a ratified agreement.

4-50 SECTION 3. This Act takes effect immediately if it receives  
4-51 a vote of two-thirds of all the members elected to each house, as  
4-52 provided by Section 39, Article III, Texas Constitution. If this  
4-53 Act does not receive the vote necessary for immediate effect, this  
4-54 Act takes effect September 1, 2005.

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