

By: Dukes, Bailey

H.B. No. 2184

Substitute the following for H.B. No. 2184:

By: Bailey

C.S.H.B. No. 2184

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. Subtitle A, Title 5, Local Government Code, is amended by adding Chapter 147 to read as follows:

CHAPTER 147. LOCAL CONTROL OF MUNICIPAL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 147.001. APPLICABILITY. (a) This chapter applies only to a municipality with a population of 650,000 or more that operates under a city manager form of government.

(b) This chapter does not apply to:

- (1) a municipality to which Chapter 146 applies;
- (2) firefighters or police officers who are covered by Subchapter I, Chapter 143;
- (3) firefighters or police officers who are covered by Chapter 174;
- (4) a municipality with a population of one million or more that has adopted Chapter 174;
- (5) a municipality with a population of one million or more that has not adopted Chapter 143; or
- (6) an employee association in which employees described by Subdivision (2) or (3) participate.

1 Sec. 147.002. DEFINITIONS. In this chapter:

2 (1) "Covered employee" means an employee of a
3 municipality, other than a department head or a firefighter or
4 police officer who is covered by Subchapter I, Chapter 143, or
5 Chapter 174.

6 (2) "Employee association" means an organization in
7 which municipal employees participate and that exists for the
8 purpose, wholly or partly, of dealing with one or more employers,
9 whether public or private, concerning grievances, labor disputes,
10 wages, rates of pay, hours of employment, or conditions of work
11 affecting public employees and whose members pay dues by means of an
12 automatic payroll deduction.

13 (3) "Public employer" means any municipality or
14 agency, board, commission, or political subdivision controlled by a
15 municipality that is required to establish the wages, salaries,
16 rates of pay, hours, working conditions, and other terms and
17 conditions of employment of public employees. The term may
18 include, under appropriate circumstances, a mayor, manager,
19 administrator of a municipality, municipal governing body,
20 director of personnel, personnel board, or one or more other
21 officials regardless of the name by which they are designated.

22 Sec. 147.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
23 RECOGNITION. (a) A municipality may not be denied local control
24 over wages, salaries, rates of pay, hours of work, other terms and
25 conditions of employment, or other state-mandated personnel
26 issues. A public employer may enter into a mutual agreement
27 governing these issues with an employee association recognized

1 under this chapter as the sole and exclusive bargaining agent for
2 all covered employees that does not advocate the illegal right to
3 strike by municipal employees. The applicable statutes, local
4 ordinances, and civil service rules govern a term or condition of
5 employment on which the public employer and the association do not
6 agree.

7 (b) An agreement under this chapter must be written.

8 (c) This chapter does not require the public employer and
9 the recognized employee association to meet and confer or reach an
10 agreement on any issue.

11 (d) This chapter does not authorize an agreement regarding
12 pension or pension-related matters governed by statute.

13 Sec. 147.004. PETITION FOR RECOGNITION: ELECTION OR ACTION
14 BY GOVERNING BODY. (a) Not later than the 30th day after the date
15 the governing body of a municipality receives from an employee
16 association a petition signed by the majority of all covered
17 employees that requests recognition of the association as the sole
18 and exclusive bargaining agent for all the covered employees, the
19 governing body shall:

20 (1) grant recognition of the association as requested
21 in the petition and find that a public employer may meet and confer
22 under this chapter without conducting an election by the voters in
23 the municipality under Section 147.006;

24 (2) defer granting recognition of the association and
25 order an election by the voters in the municipality under Section
26 147.006 regarding whether a public employer may meet and confer
27 under this chapter; or

1 (3) order a certification election under Section
2 147.005 to determine whether the association represents a majority
3 of the covered employees.

4 (b) If the governing body of a municipality orders a
5 certification election under Subsection (a)(3) and the association
6 named in the petition is certified to represent a majority of the
7 covered employees, the governing body shall, not later than the
8 30th day after the date that results of that election are certified:

9 (1) grant recognition of the association as requested
10 in the petition for recognition and find that a public employer may
11 meet and confer under this chapter without conducting an election
12 by the voters in the municipality under Section 147.006; or

13 (2) defer granting recognition of the association and
14 order an election by the voters in the municipality under Section
15 147.006 regarding whether a public employer may meet and confer
16 under this chapter.

17 Sec. 147.005. CERTIFICATION ELECTION. (a) Except as
18 provided by Subsection (b), a certification election ordered under
19 Section 147.004(a)(3) to determine whether an employee association
20 represents a majority of the covered employees shall be conducted
21 according to procedures agreeable to the parties.

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

26 (c) The results of an election shall be certified if the
27 employee association receives a majority of valid votes cast in the

1 election.

2 (d) The association is liable for the expenses of the
3 certification election, except that if two or more associations
4 seeking recognition as the sole and exclusive bargaining agent
5 submit a petition signed by at least 30 percent of the employees
6 eligible to sign the petition for recognition, all the associations
7 named in any petition shall share equally the costs of the election.

8 Sec. 147.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS
9 CHAPTER. (a) The governing body of a municipality that receives a
10 petition for recognition under Section 147.004 may order an
11 election to determine whether a public employer may meet and confer
12 under this chapter.

13 (b) An election ordered under this section must be held as
14 part of the next regularly scheduled general election for municipal
15 officials that is held after the date the governing body of the
16 municipality orders the election and that allows sufficient time to
17 prepare the ballot in compliance with other requirements of law.

18 (c) The ballot for an election ordered under this section
19 shall be printed to permit voting for or against the proposition:
20 "Authorizing _____ (name of the municipality) to operate under
21 the state law allowing a municipality to meet and confer and make
22 agreements with the association representing municipal employees
23 as provided by state law, preserving the prohibition against
24 strikes and organized work stoppages, and providing penalties for
25 strikes and organized work stoppages."

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

1 Code.

2 (e) If an election authorized under this section is held,
3 the municipality may operate under the other provisions of this
4 chapter only if a majority of the votes cast at the election favor
5 the proposition.

6 (f) If an election authorized under this section is held, an
7 association may not submit a petition for recognition to the
8 governing body of the municipality under Section 147.004 before the
9 second anniversary of the date of the election.

10 Sec. 147.007. CHANGE OR MODIFICATION OF RECOGNITION. (a)
11 The municipal employees may modify or change the recognition of the
12 employee association granted under this chapter by filing with the
13 governing body of the municipality a petition signed by a majority
14 of all covered employees.

15 (b) The governing body of the municipality may:

16 (1) recognize the change or modification as provided
17 by the petition; or

18 (2) order a certification election in accordance with
19 Section 147.005 regarding whether to do so.

20 Sec. 147.008. STRIKES PROHIBITED. (a) A municipal
21 employee may not engage in a strike or organized work stoppage
22 against this state or the municipality.

23 (b) A municipal employee who participates in a strike
24 forfeits any civil service rights, reemployment rights, and other
25 rights, benefits, or privileges the employee may have as a result of
26 the employee's employment or prior employment with the
27 municipality.

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

4 Sec. 147.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A
5 public employer in a municipality that chooses to meet and confer
6 under this chapter shall recognize an association that is
7 recognized under Section 147.004 or 147.005 as the sole and
8 exclusive bargaining agent for the covered employees.

9 (b) The public employer shall recognize the employee
10 association until recognition of the association is withdrawn, in
11 accordance with Section 147.007, by a majority of the municipal
12 employees eligible to sign a petition for recognition.

13 Sec. 147.010. SELECTION OF BARGAINING AGENT; BARGAINING
14 UNIT. (a) The public employer's chief executive officer or the
15 chief executive officer's designee shall select one or more persons
16 to represent the public employer as its sole and exclusive
17 bargaining agent to meet and confer on issues related to the wages,
18 hours of employment, and other terms and conditions of employment
19 of municipal employees.

20 (b) An employee association may designate one or more
21 persons to negotiate or bargain on the association's behalf.

22 (c) A municipality's bargaining unit is composed of all the
23 covered employees.

24 Sec. 147.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and
25 confer agreement ratified under this chapter may not interfere with
26 the right of a member of a bargaining unit to pursue allegations of
27 discrimination based on race, creed, color, national origin,

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

4 Sec. 147.012. OPEN RECORDS. (a) A proposed meet and confer
5 agreement and a document prepared and used by the municipality,
6 including a public employer, in connection with the proposed
7 agreement are available to the public under Chapter 552, Government
8 Code, only after the agreement is ready to be ratified by the
9 governing body of the municipality.

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

13 Sec. 147.013. OPEN DELIBERATIONS. (a) Deliberations
14 relating to a meet and confer agreement or proposed agreement under
15 this chapter between representatives of the public employer and
16 representatives of the employee association recognized under this
17 chapter as the sole and exclusive bargaining agent for the covered
18 employees must be open to the public and comply with state law.

19 (b) Subsection (a) may not be construed to prohibit the
20 representatives of the public employer or the representatives of
21 the recognized employee association from conducting private
22 caucuses that are not open to the public during meet and confer
23 negotiations.

24 Sec. 147.014. RATIFICATION AND ENFORCEABILITY OF
25 AGREEMENT. (a) An agreement under this chapter is enforceable and
26 binding on the public employer, the recognized employee
27 association, and the employees covered by the meet and confer

1 agreement only if:

2 (1) the governing body of the municipality ratified
3 the agreement by a majority vote; and

4 (2) the recognized employee association ratified the
5 agreement by conducting a secret ballot election at which the
6 majority of the covered employees who voted in the election and are
7 members of the association favored ratifying the agreement.

8 (b) A meet and confer agreement ratified as described by
9 Subsection (a) may establish a procedure by which the parties agree
10 to resolve disputes related to a right, duty, or obligation
11 provided by the agreement, including binding arbitration on a
12 question involving interpretation of the agreement.

13 (c) A state district court of a judicial district in which
14 the municipality is located has jurisdiction to hear and resolve a
15 dispute under the ratified meet and confer agreement on the
16 application of a party to the agreement aggrieved by an action or
17 omission of the other party when the action or omission is related
18 to a right, duty, or obligation provided by the agreement. The
19 court may issue proper restraining orders, temporary and permanent
20 injunctions, or any other writ, order, or process, including
21 contempt orders, that are appropriate to enforcing the agreement.

22 Sec. 147.015. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
23 OPERATE UNDER THIS CHAPTER. (a) The governing body of a
24 municipality that granted recognition of an employee association
25 under Section 147.004 without conducting an election under Section
26 147.006 may withdraw recognition of the association by providing to
27 the association not less than 90 days' written notice that:

1 (1) the governing body is withdrawing recognition of
2 the association; and

3 (2) any agreement between the governing body and the
4 association will not be renewed.

5 (b) The governing body of a municipality that granted
6 recognition of an employee association after conducting an election
7 under Section 147.006 may order an election to determine whether a
8 public employer may continue to meet and confer under this chapter.
9 The governing body may not order an election under this subsection
10 until the second anniversary of the date of the election under
11 Section 147.006.

12 (c) An election ordered under Subsection (b) must be held as
13 part of the next regularly scheduled general election for municipal
14 officers that occurs after the date the governing body of the
15 municipality orders the election and that allows sufficient time to
16 prepare the ballot in compliance with other requirements of law.

17 (d) The ballot for an election ordered under Subsection (b)
18 shall be printed to permit voting for or against the proposition:
19 "Authorizing _____ (name of the municipality) to continue to
20 operate under the state law allowing a municipality to meet and
21 confer and make agreements with the association representing
22 municipal employees as provided by state law, preserving the
23 prohibition against strikes and organized work stoppages, and
24 providing penalties for strikes and organized work stoppages."

25 (e) An election ordered under Subsection (b) must be held
26 and the returns prepared and canvassed in conformity with the
27 Election Code.

1 (f) If an election ordered under Subsection (b) is held, the
2 municipality may continue to operate under this chapter only if a
3 majority of the votes cast at the election favor the proposition.

4 (g) If an election ordered under Subsection (b) is held, an
5 association may not submit a petition for recognition to the
6 governing body of the municipality under Section 147.004 before the
7 second anniversary of the date of the election.

8 Sec. 147.016. ELECTION TO REPEAL AGREEMENT. (a) Not later
9 than the 45th day after the date a meet and confer agreement is
10 ratified by the governing body of the municipality and the
11 recognized employee association, a petition calling for the repeal
12 of the agreement signed by at least 10 percent of the qualified
13 voters residing in the municipality may be presented to the person
14 charged with ordering an election under Section 3.004, Election
15 Code.

16 (b) If a petition is presented under Subsection (a), the
17 governing body of the municipality shall:

- 18 (1) repeal the meet and confer agreement; or
19 (2) certify that it is not repealing the agreement and
20 call an election to determine whether to repeal the agreement.

21 (c) An election called under Subsection (b)(2) may be held
22 as part of the next regularly scheduled general election for the
23 municipality or at a special election called by the governing body
24 for that purpose. The ballot shall be printed to permit voting for
25 or against the proposition: "Repeal the meet and confer agreement
26 ratified on _____ (date agreement was ratified) by the _____
27 (name of the governing body of the municipality) and the _____ (name

1 of the recognized municipal employee association) concerning
2 wages, salaries, rates of pay, hours of work, and other terms of
3 employment."

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

6 Sec. 147.017. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
7 A written meet and confer agreement ratified under this chapter
8 preempts, during the term of the agreement and to the extent of any
9 conflict, all contrary state statutes, local ordinances, executive
10 orders, civil service provisions, or rules adopted by this state or
11 a political subdivision or agent of this state, including a
12 personnel board, civil service commission, or home-rule
13 municipality, other than a statute, ordinance, executive order,
14 civil service provision, or rule regarding pensions or
15 pension-related matters.

16 SECTION 2. This Act takes effect September 1, 2007.