

By: Dukes

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) a municipality that has adopted Chapter 174;
- (4) a municipality of one million or more that has not adopted Chapter 143; or
- (5) an employee association in which employees described by Subdivision (2) participate.

Sec. 147.002. DEFINITIONS. In this chapter:

- (1) "Covered employee" means an employee of a municipality, other than a department head or a firefighter or

1 police officer who is covered by Subchapter I, Chapter 143.

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

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

18 Sec. 147.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
19 RECOGNITION. (a) A municipality may not be denied local control
20 over wages, salaries, rates of pay, hours of work, other terms and
21 conditions of employment, or other state-mandated personnel
22 issues. A public employer may enter into a mutual agreement
23 governing these issues with an employee association recognized
24 under this chapter as the sole and exclusive bargaining agent for
25 all covered employees that does not advocate the illegal right to
26 strike by municipal employees. The applicable statutes, local
27 ordinances, and civil service rules govern a term or condition of

1 employment on which the public employer and the association do not
2 agree.

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

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

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

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

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

20 (2) defer granting recognition of the association and
21 order an election by the voters in the municipality under Section
22 147.006 regarding whether a public employer may meet and confer
23 under this chapter; or

24 (3) order a certification election under Section
25 147.005 to determine whether the association represents a majority
26 of the covered employees.

27 (b) If the governing body of a municipality orders a

1 certification election under Subsection (a)(3) and the association
2 named in the petition is certified to represent a majority of the
3 covered employees, the governing body shall, not later than the
4 30th day after the date that results of that election are certified:

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

9 (2) defer granting recognition of the association and
10 order an election by the voters in the municipality under Section
11 147.006 regarding whether a public employer may meet and confer
12 under this chapter.

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

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

22 (c) The results of an election shall be certified if the
23 employee association receives a majority of valid votes cast in the
24 election.

25 (d) The association is liable for the expenses of the
26 certification election, except that if two or more associations
27 seeking recognition as the sole and exclusive bargaining agent

1 submit a petition signed by at least 30 percent of the employees
2 eligible to sign the petition for recognition, all the associations
3 named in any petition shall share equally the costs of the election.

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

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

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

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

25 (e) If an election authorized under this section is held,
26 the municipality may operate under the other provisions of this
27 chapter only if a majority of the votes cast at the election favor

1 the proposition.

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

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

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

12 (1) recognize the change or modification as provided
13 by the petition; or

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

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

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

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

27 Sec. 147.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A

1 public employer in a municipality that chooses to meet and confer
2 under this chapter shall recognize an association that is
3 recognized under Section 147.004 or 147.005 as the sole and
4 exclusive bargaining agent for the covered employees.

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

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

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

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

20 Sec. 147.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and
21 confer agreement ratified under this chapter may not interfere with
22 the right of a member of a bargaining unit to pursue allegations of
23 discrimination based on race, creed, color, national origin,
24 religion, age, sex, or disability with the Texas Workforce
25 Commission civil rights division or the federal Equal Employment
26 Opportunity Commission or to pursue affirmative action litigation.

27 Sec. 147.012. OPEN RECORDS. (a) A proposed meet and confer

1 agreement and a document prepared and used by the municipality,
2 including a public employer, in connection with the proposed
3 agreement are available to the public under Chapter 552, Government
4 Code, only after the agreement is ready to be ratified by the
5 governing body of the municipality.

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

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

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

20 Sec. 147.014. RATIFICATION AND ENFORCEABILITY OF
21 AGREEMENT. (a) An agreement under this chapter is enforceable and
22 binding on the public employer, the recognized employee
23 association, and the employees covered by the meet and confer
24 agreement only if:

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

27 (2) the recognized employee association ratified the

1 agreement by conducting a secret ballot election at which the
2 majority of the covered employees who voted in the election and are
3 members of the association favored ratifying the agreement.

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

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

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

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

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

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

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

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

21 (e) An election ordered under Subsection (b) must be held
22 and the returns prepared and canvassed in conformity with the
23 Election Code.

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

27 (g) If an election ordered under Subsection (b) is held, an

1 association may not submit a petition for recognition to the
2 governing body of the municipality under Section 147.004 before the
3 second anniversary of the date of the election.

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

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

14 (1) repeal the meet and confer agreement; or

15 (2) certify that it is not repealing the agreement and
16 call an election to determine whether to repeal the agreement.

17 (c) An election called under Subsection (b)(2) may be held
18 as part of the next regularly scheduled general election for the
19 municipality or at a special election called by the governing body
20 for that purpose. The ballot shall be printed to permit voting for
21 or against the proposition: "Repeal the meet and confer agreement
22 ratified on _____ (date agreement was ratified) by the _____
23 (name of the governing body of the municipality) and the _____ (name
24 of the recognized municipal employee association) concerning
25 wages, salaries, rates of pay, hours of work, and other terms of
26 employment."

27 (d) If a majority of the votes cast at the election favor the

1 repeal of the agreement, the agreement is void.

2 Sec. 147.017. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

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

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