

1-1 By: Dukes, Bailey (Senate Sponsor - Watson) H.B. No. 2184  
1-2 (In the Senate - Received from the House May 14, 2007;  
1-3 May 15, 2007, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 19, 2007, reported adversely,  
1-5 with favorable Committee Substitute by the following vote: Yeas 3,  
1-6 Nays 0; May 19, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2184 By: Nichols

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

1-10 relating to the right of certain municipalities to maintain local  
1-11 control over wages, hours, and other terms and conditions of  
1-12 employment.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subtitle A, Title 5, Local Government Code, is  
1-15 amended by adding Chapter 147 to read as follows:

1-16 CHAPTER 147. LOCAL CONTROL OF MUNICIPAL EMPLOYMENT MATTERS IN  
1-17 CERTAIN MUNICIPALITIES

1-18 Sec. 147.001. APPLICABILITY. (a) This chapter applies  
1-19 only to a municipality with a population of 650,000 or more that  
1-20 operates under a city manager form of government.

1-21 (b) This chapter does not apply to:

1-22 (1) a municipality to which Chapter 146 applies;

1-23 (2) firefighters, police officers, or emergency  
1-24 medical services personnel who are covered by other meet and confer  
1-25 or collective bargaining provisions;

1-26 (3) a municipality with a population of one million or  
1-27 more that has adopted Chapter 174;

1-28 (4) a municipality with a population of one million or  
1-29 more that has not adopted Chapter 143; or

1-30 (5) an employee association in which employees  
1-31 described by Subdivision (2) participate, in connection with the  
1-32 association's representation of those employees.

1-33 Sec. 147.002. DEFINITIONS. In this chapter:

1-34 (1) "Appointed employee" means any municipal employee  
1-35 who is appointed by the municipality's governing body.

1-36 (2) "Covered employees" means all employees of a  
1-37 municipality, other than:

1-38 (A) appointed employees;

1-39 (B) the city manager;

1-40 (C) assistant city managers;

1-41 (D) department directors;

1-42 (E) assistant department directors;

1-43 (F) the city attorney;

1-44 (G) not more than five attorneys employed by the  
1-45 city attorney's office and identified by the city attorney for  
1-46 purposes of this subdivision;

1-47 (H) cadets or trainees enrolled in a training  
1-48 program for police officers, firefighters, or emergency medical  
1-49 services personnel;

1-50 (I) an employee described by Section  
1-51 147.001(b)(2);

1-52 (J) any employee designated under Section  
1-53 147.010(a) as a bargaining agent for the public employer; and

1-54 (K) any employee designated as exempt from the  
1-55 bargaining unit by the mutual agreement of the recognized employee  
1-56 association and the public employer.

1-57 (3) "Emergency medical services personnel" means any  
1-58 municipal employees:

1-59 (A) who are employed in a municipal department  
1-60 that has as its primary function providing emergency medical  
1-61 services; and

1-62 (B) whose duties require that the employees be  
1-63 certified under Chapter 773, Health and Safety Code.

2-1                   (4) "Employee association" means an organization in  
 2-2 which covered employees participate and that exists for the  
 2-3 purpose, wholly or partly, of dealing with one or more employers,  
 2-4 whether public or private, concerning grievances, labor disputes,  
 2-5 wages, rates of pay, hours of employment, or conditions of work  
 2-6 affecting public employees and whose members pay dues by means of an  
 2-7 automatic payroll deduction.

2-8                   (5) "Public employer" means any municipality or  
 2-9 agency, board, commission, or political subdivision controlled by a  
 2-10 municipality that is required to establish the wages, salaries,  
 2-11 rates of pay, hours, working conditions, and other terms and  
 2-12 conditions of employment of public employees. The term may  
 2-13 include, under appropriate circumstances, a mayor, manager,  
 2-14 administrator of a municipality, municipal governing body,  
 2-15 director of personnel, personnel board, or one or more other  
 2-16 officials regardless of the name by which they are designated.

2-17                   Sec. 147.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND  
 2-18 RECOGNITION. (a) A municipality may not be denied local control  
 2-19 over wages, salaries, rates of pay, hours of work, other terms and  
 2-20 conditions of employment, or other state-mandated personnel  
 2-21 issues. A public employer may enter into a mutual agreement  
 2-22 governing these issues with an employee association recognized  
 2-23 under this chapter as the sole and exclusive bargaining agent for  
 2-24 all covered employees that does not advocate the illegal right to  
 2-25 strike by municipal employees. The applicable statutes, local  
 2-26 ordinances, and civil service rules govern a term or condition of  
 2-27 employment on which the public employer and the association do not  
 2-28 agree.

2-29                   (b) An agreement under this chapter must be written.

2-30                   (c) This chapter does not require the public employer and  
 2-31 the recognized employee association to meet and confer or reach an  
 2-32 agreement on any issue.

2-33                   (d) This chapter does not authorize an agreement regarding  
 2-34 pension or pension-related matters governed by statute.

2-35                   Sec. 147.004. PETITION FOR RECOGNITION: ELECTION OR ACTION  
 2-36 BY GOVERNING BODY. (a) Not later than the 30th day after the date  
 2-37 the governing body of a municipality receives from an employee  
 2-38 association a petition signed by the majority of all covered  
 2-39 employees that requests recognition of the association as the sole  
 2-40 and exclusive bargaining agent for all the covered employees, the  
 2-41 governing body shall:

2-42                   (1) grant recognition of the association as requested  
 2-43 in the petition and find that a public employer may meet and confer  
 2-44 under this chapter without conducting an election by the voters in  
 2-45 the municipality under Section 147.006;

2-46                   (2) defer granting recognition of the association and  
 2-47 order an election by the voters in the municipality under Section  
 2-48 147.006 regarding whether a public employer may meet and confer  
 2-49 under this chapter; or

2-50                   (3) order a certification election under Section  
 2-51 147.005 to determine whether the association represents a majority  
 2-52 of the covered employees.

2-53                   (b) If the governing body of a municipality orders a  
 2-54 certification election under Subsection (a)(3) and the employee  
 2-55 association named in the petition is certified to represent a  
 2-56 majority of the covered employees, the governing body shall, not  
 2-57 later than the 30th day after the date that results of that election  
 2-58 are certified:

2-59                   (1) grant recognition of the association as requested  
 2-60 in the petition for recognition and find that a public employer may  
 2-61 meet and confer under this chapter without conducting an election  
 2-62 by the voters in the municipality under Section 147.006; or

2-63                   (2) defer granting recognition of the association and  
 2-64 order an election by the voters in the municipality under Section  
 2-65 147.006 regarding whether a public employer may meet and confer  
 2-66 under this chapter.

2-67                   Sec. 147.005. CERTIFICATION ELECTION. (a) Except as  
 2-68 provided by Subsection (b), a certification election ordered under  
 2-69 Section 147.004(a)(3) to determine whether an employee association

3-1 represents a majority of the covered employees shall be conducted  
3-2 according to procedures agreeable to the parties.

3-3 (b) If the parties are unable to agree on procedures for the  
3-4 certification election, either party may request the American  
3-5 Arbitration Association to conduct the election and to certify the  
3-6 results of the election.

3-7 (c) The results of an election shall be certified if the  
3-8 employee association receives a majority of valid votes cast in the  
3-9 election.

3-10 (d) The employee association is liable for the expenses of  
3-11 the certification election, except that if two or more associations  
3-12 seeking recognition as the sole and exclusive bargaining agent  
3-13 submit a petition signed by at least 30 percent of the employees  
3-14 eligible to sign the petition for recognition, all the associations  
3-15 named in any petition shall share equally the costs of the election.

3-16 Sec. 147.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS  
3-17 CHAPTER. (a) The governing body of a municipality that receives a  
3-18 petition for recognition under Section 147.004 may order an  
3-19 election to determine whether a public employer may meet and confer  
3-20 under this chapter.

3-21 (b) An election ordered under this section must be held as  
3-22 part of the next regularly scheduled general election for municipal  
3-23 officials that is held after the date the governing body of the  
3-24 municipality orders the election and that allows sufficient time to  
3-25 prepare the ballot in compliance with other requirements of law.

3-26 (c) The ballot for an election ordered under this section  
3-27 shall be printed to permit voting for or against the proposition:  
3-28 "Authorizing \_\_\_\_\_ (name of the municipality) to operate under  
3-29 the state law allowing a municipality to meet and confer and make  
3-30 agreements with the association representing municipal employees  
3-31 as provided by state law, preserving the prohibition against  
3-32 strikes and organized work stoppages, and providing penalties for  
3-33 strikes and organized work stoppages."

3-34 (d) An election called under this section must be held and  
3-35 the returns prepared and canvassed in conformity with the Election  
3-36 Code.

3-37 (e) If an election authorized under this section is held,  
3-38 the municipality may operate under the other provisions of this  
3-39 chapter only if a majority of the votes cast at the election favor  
3-40 the proposition.

3-41 (f) If an election authorized under this section is held, an  
3-42 employee association may not submit a petition for recognition to  
3-43 the governing body of the municipality under Section 147.004 before  
3-44 the second anniversary of the date of the election.

3-45 Sec. 147.007. CHANGE OR MODIFICATION OF RECOGNITION. (a)  
3-46 The covered employees may modify or change the recognition of the  
3-47 employee association granted under this chapter by filing with the  
3-48 governing body of the municipality a petition signed by a majority  
3-49 of all covered employees.

3-50 (b) The governing body of the municipality may:  
3-51 (1) recognize the change or modification as provided  
3-52 by the petition; or

3-53 (2) order a certification election in accordance with  
3-54 Section 147.005 regarding whether to do so.

3-55 Sec. 147.008. STRIKES PROHIBITED. (a) A municipal  
3-56 employee may not engage in a strike or organized work stoppage  
3-57 against this state or the municipality.

3-58 (b) A municipal employee who participates in a strike  
3-59 forfeits any civil service rights, reemployment rights, and other  
3-60 rights, benefits, or privileges the employee may have as a result of  
3-61 the employee's employment or prior employment with the  
3-62 municipality.

3-63 (c) This section does not affect the right of a person to  
3-64 cease work if the person is not acting in concert with others in an  
3-65 organized work stoppage.

3-66 Sec. 147.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A  
3-67 public employer in a municipality that chooses to meet and confer  
3-68 under this chapter shall recognize an employee association that is  
3-69 recognized under Section 147.004 or 147.005 as the sole and

4-1 exclusive bargaining agent for the covered employees.

4-2 (b) The public employer shall recognize the employee  
 4-3 association until recognition of the association is withdrawn, in  
 4-4 accordance with Section 147.007, by a majority of the covered  
 4-5 employees.

4-6 Sec. 147.010. SELECTION OF BARGAINING AGENT. (a) The  
 4-7 public employer's chief executive officer or the chief executive  
 4-8 officer's designee shall select one or more persons to represent  
 4-9 the public employer as its sole and exclusive bargaining agent to  
 4-10 meet and confer on issues related to the wages, hours of employment,  
 4-11 and other terms and conditions of employment of covered employees.

4-12 (b) An employee association may designate one or more  
 4-13 persons to negotiate or bargain on the association's behalf.

4-14 Sec. 147.011. BARGAINING UNIT. (a) A municipality's  
 4-15 bargaining unit is composed of all the covered employees.

4-16 (b) The municipality and the recognized employee  
 4-17 association, by agreement, may partition the bargaining unit into  
 4-18 two or more separate bargaining units to facilitate negotiations  
 4-19 and to safeguard the rights of employees to effective  
 4-20 representation. If a bargaining agent has been recognized by the  
 4-21 governing body, any partitioning of the bargaining unit does not  
 4-22 alter the recognition of the bargaining agent.

4-23 Sec. 147.012. PROTECTED RIGHTS OF EMPLOYEES. (a) A meet  
 4-24 and confer agreement ratified under this chapter may not interfere  
 4-25 with the right of a member of a bargaining unit to pursue  
 4-26 allegations of discrimination based on race, creed, color, national  
 4-27 origin, religion, age, sex, or disability with the Texas Workforce  
 4-28 Commission civil rights division or the federal Equal Employment  
 4-29 Opportunity Commission or to pursue affirmative action litigation.

4-30 (b) For the purpose of any disciplinary or individual  
 4-31 grievance proceeding, a member of the bargaining unit is entitled  
 4-32 to be represented by any person of the member's choice or by the  
 4-33 recognized employee association.

4-34 Sec. 147.013. OPEN RECORDS. (a) A proposed meet and confer  
 4-35 agreement and a document prepared and used by the municipality,  
 4-36 including a public employer, in connection with the proposed  
 4-37 agreement are available to the public under Chapter 552, Government  
 4-38 Code, only after the agreement is ready to be ratified by the  
 4-39 governing body of the municipality.

4-40 (b) This section does not affect the application of  
 4-41 Subchapter C, Chapter 552, Government Code, to a document prepared  
 4-42 and used in connection with the agreement.

4-43 Sec. 147.014. OPEN DELIBERATIONS. (a) Deliberations  
 4-44 relating to a meet and confer agreement or proposed agreement under  
 4-45 this chapter between representatives of the public employer and  
 4-46 representatives of the employee association recognized under this  
 4-47 chapter as the sole and exclusive bargaining agent for the covered  
 4-48 employees must be open to the public and comply with state law.

4-49 (b) Subsection (a) may not be construed to prohibit the  
 4-50 representatives of the public employer or the representatives of  
 4-51 the recognized employee association from conducting private  
 4-52 caucuses that are not open to the public during meet and confer  
 4-53 negotiations.

4-54 Sec. 147.015. RATIFICATION AND ENFORCEABILITY OF  
 4-55 AGREEMENT. (a) An agreement under this chapter is enforceable and  
 4-56 binding on the public employer, the recognized employee  
 4-57 association, and the employees covered by the meet and confer  
 4-58 agreement only if:

4-59 (1) the governing body of the municipality ratified  
 4-60 the agreement by a majority vote; and

4-61 (2) the recognized employee association ratified the  
 4-62 agreement by conducting a secret ballot election at which the  
 4-63 majority of the covered employees who voted in the election and are  
 4-64 members of the association favored ratifying the agreement.

4-65 (b) A meet and confer agreement ratified as described by  
 4-66 Subsection (a) may establish a procedure by which the parties agree  
 4-67 to resolve disputes related to a right, duty, or obligation  
 4-68 provided by the agreement, including binding arbitration on a  
 4-69 question involving interpretation of the agreement.

5-1           (c) A state district court of a judicial district in which  
 5-2 the municipality is located has jurisdiction to hear and resolve a  
 5-3 dispute under the ratified meet and confer agreement on the  
 5-4 application of a party to the agreement aggrieved by an action or  
 5-5 omission of the other party when the action or omission is related  
 5-6 to a right, duty, or obligation provided by the agreement. The  
 5-7 court may issue proper restraining orders, temporary and permanent  
 5-8 injunctions, or any other writ, order, or process, including  
 5-9 contempt orders, that are appropriate to enforcing the agreement.

5-10           Sec. 147.016. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO  
 5-11 OPERATE UNDER THIS CHAPTER. (a) The governing body of a  
 5-12 municipality that granted recognition of an employee association  
 5-13 under Section 147.004 without conducting an election under Section  
 5-14 147.006 may withdraw recognition of the association by providing to  
 5-15 the association not less than 90 days' written notice that:

5-16           (1) the governing body is withdrawing recognition of  
 5-17 the association; and

5-18           (2) any agreement between the governing body and the  
 5-19 association will not be renewed.

5-20           (b) The governing body of a municipality that granted  
 5-21 recognition of an employee association after conducting an election  
 5-22 under Section 147.006 may order an election to determine whether a  
 5-23 public employer may continue to meet and confer under this chapter.  
 5-24 The governing body may not order an election under this subsection  
 5-25 until the second anniversary of the date of the election under  
 5-26 Section 147.006.

5-27           (c) An election ordered under Subsection (b) must be held as  
 5-28 part of the next regularly scheduled general election for municipal  
 5-29 officers that occurs after the date the governing body of the  
 5-30 municipality orders the election and that allows sufficient time to  
 5-31 prepare the ballot in compliance with other requirements of law.

5-32           (d) The ballot for an election ordered under Subsection (b)  
 5-33 shall be printed to permit voting for or against the proposition:  
 5-34 "Authorizing \_\_\_\_\_ (name of the municipality) to continue to  
 5-35 operate under the state law allowing a municipality to meet and  
 5-36 confer and make agreements with the association representing  
 5-37 municipal employees as provided by state law, preserving the  
 5-38 prohibition against strikes and organized work stoppages, and  
 5-39 providing penalties for strikes and organized work stoppages."

5-40           (e) An election ordered under Subsection (b) must be held  
 5-41 and the returns prepared and canvassed in conformity with the  
 5-42 Election Code.

5-43           (f) If an election ordered under Subsection (b) is held, the  
 5-44 municipality may continue to operate under this chapter only if a  
 5-45 majority of the votes cast at the election favor the proposition.

5-46           (g) If an election ordered under Subsection (b) is held, an  
 5-47 employee association may not submit a petition for recognition to  
 5-48 the governing body of the municipality under Section 147.004 before  
 5-49 the second anniversary of the date of the election.

5-50           Sec. 147.017. ELECTION TO REPEAL AGREEMENT. (a) Not later  
 5-51 than the 45th day after the date a meet and confer agreement is  
 5-52 ratified by the governing body of the municipality and the  
 5-53 recognized employee association, a petition calling for the repeal  
 5-54 of the agreement signed by at least 10 percent of the qualified  
 5-55 voters residing in the municipality may be presented to the person  
 5-56 charged with ordering an election under Section 3.004, Election  
 5-57 Code.

5-58           (b) If a petition is presented under Subsection (a), the  
 5-59 governing body of the municipality shall:

5-60           (1) repeal the meet and confer agreement; or

5-61           (2) certify that it is not repealing the agreement and  
 5-62 call an election to determine whether to repeal the agreement.

5-63           (c) An election called under Subsection (b)(2) may be held  
 5-64 as part of the next regularly scheduled general election for the  
 5-65 municipality or at a special election called by the governing body  
 5-66 for that purpose. The ballot shall be printed to permit voting for  
 5-67 or against the proposition: "Repeal the meet and confer agreement  
 5-68 ratified on \_\_\_\_\_ (date agreement was ratified) by the \_\_\_\_\_  
 5-69 (name of the governing body of the municipality) and the \_\_\_\_\_ (name

6-1 of the recognized municipal employee association) concerning  
6-2 wages, salaries, rates of pay, hours of work, and other terms of  
6-3 employment."

6-4 (d) If a majority of the votes cast at the election favor the  
6-5 repeal of the agreement, the agreement is void.

6-6 Sec. 147.018. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.  
6-7 A written meet and confer agreement ratified under this chapter  
6-8 preempts, during the term of the agreement and to the extent of any  
6-9 conflict, all contrary state statutes, local ordinances, executive  
6-10 orders, civil service provisions, or rules adopted by this state or  
6-11 a political subdivision or agent of this state, including a  
6-12 personnel board, civil service commission, or home-rule  
6-13 municipality, other than a statute, ordinance, executive order,  
6-14 civil service provision, or rule regarding pensions or  
6-15 pension-related matters.

6-16 SECTION 2. This Act takes effect September 1, 2007.

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