

By: Herrero

H.B. No. 3081

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the right of certain municipalities to maintain local
3 control over wages, hours, and other terms and conditions of
4 employment.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Chapter 146, Local Government
7 Code, is amended to read as follows:

8 CHAPTER 146. LOCAL CONTROL OF MUNICIPAL EMPLOYMENT MATTERS IN
9 ~~CERTAIN~~ MUNICIPALITIES WITH A POPULATION OF 1.5 MILLION OR MORE

10 SECTION 2. Subtitle A, Title 5, Local Government Code, is
11 amended by adding Chapter 147 to read as follows:

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

14 Sec. 147.001. APPLICABILITY. This chapter does not apply
15 to:

16 (1) firefighters or police officers who are covered by
17 Subchapter H, I, or J of Chapter 143 or by Chapter 174;

18 (2) an employee association in which employees
19 described by Subdivision (1) participate; or

20 (3) a municipality covered by Chapter 146.

21 Sec. 147.002. DEFINITIONS. In this chapter:

22 (1) "Bargaining unit" means any group of employees
23 designated by the municipality for negotiations between a
24 recognized employee association and the public employer.

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

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

16 Sec. 147.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
17 RECOGNITION. (a) A municipality may not be denied local control
18 over the wages, salaries, rates of pay, hours of work, other terms
19 and conditions of employment, affirmative action programs, or other
20 state-mandated personnel issues. A public employer may enter into
21 a mutual written agreement governing these issues with an employee
22 association that does not advocate the illegal right to strike by
23 municipal employees.

24 (b) A municipality may recognize an employee association
25 that does not advocate the illegal right to strike by municipal
26 employees as the negotiating agent for any group of municipal
27 employees so requesting that representation under this chapter.

1 Sec. 147.004. STRIKES PROHIBITED. (a) Employees of a
2 municipality may not engage in strikes or organized work stoppages
3 against the state or a municipality of the state.

4 (b) An employee who participates in a strike forfeits all
5 civil service rights, reemployment rights, and any other rights,
6 benefits, or privileges the employee enjoys as a result of
7 employment or prior employment, except that the right of an
8 individual to cease work may not be abridged if the individual is
9 not acting in concert with others in an organized work stoppage.

10 Sec. 147.005. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A
11 public employer may recognize an employee association as the sole
12 and exclusive negotiating agent for a bargaining unit, regardless
13 of whether the public employer has recognized the employee
14 association under Subsection (b).

15 (b) An employee association selected by a petition signed by
16 a majority of the employees of the municipality, excluding
17 department directors, may be recognized by the public employer as
18 the sole and exclusive negotiating agent for all of the covered
19 employees unless and until recognition of the association is
20 withdrawn by a majority of those employees.

21 Sec. 147.006. ELECTION. (a) In the event of a question
22 about whether an employee association is the majority
23 representative of the covered employees, the question shall be
24 resolved by a fair election conducted according to procedures
25 agreeable to the parties.

26 (b) If the parties are unable to agree on the procedures, a
27 party may request the American Arbitration Association to conduct

1 the elections and to certify the results. Certification of the
2 results of an election resolves the question concerning
3 representation.

4 (c) The employee association is liable for the expenses of
5 the election, except that if two or more associations seeking
6 recognition as the negotiating agent submit petitions signed by a
7 majority of the covered employees, the associations shall share
8 equally the costs of the election.

9 Sec. 147.007. OPEN MEETINGS REQUIRED. All meetings
10 relating to an agreement between an employee association and a
11 public employer shall be open to the public as required by Chapter
12 551, Government Code.

13 Sec. 147.008. ENFORCEABILITY OF AGREEMENT. (a) A written
14 agreement made under this chapter between a public employer and an
15 employee association is enforceable and binding on the public
16 employer, the employee association, and the public employees
17 covered by the agreement if:

18 (1) the governing body of the municipality ratifies
19 the agreement by majority vote; and

20 (2) the employee association ratifies the agreement by
21 a majority vote of the members of the bargaining unit by secret
22 ballot.

23 (b) The state district court of the judicial district in
24 which the municipality is located has jurisdiction over the
25 application of either party aggrieved by an action or omission of
26 the other party if the action or omission relates to the rights,
27 duties, or obligations provided by this chapter. The court may

1 issue proper restraining orders, temporary and permanent
2 injunctions, and any other writs, orders, or processes, including
3 contempt orders, that are appropriate to enforcing this chapter.

4 Sec. 147.009. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

5 (a) A written agreement under this chapter between a public
6 employer and an employee association supersedes a previous statute
7 concerning wages, salaries, rates of pay, hours of work, and other
8 terms and conditions of employment to the extent of any conflict
9 with the previous statute.

10 (b) A written agreement under this chapter preempts all
11 contrary local ordinances, executive orders, legislation, or rules
12 adopted by this state or a political subdivision or agent of this
13 state such as a personnel board, a civil service commission, or a
14 home-rule municipality.

15 SECTION 3. This Act takes effect September 1, 2007.