

AN ACT

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

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

SECTION 1. Chapter 142, Local Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. LOCAL CONTROL OF EMERGENCY MEDICAL SERVICES

PERSONNEL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.151. APPLICABILITY. This subchapter applies only to a municipality:

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

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

Sec. 142.152. DEFINITIONS. In this subchapter:

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

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

1 Health and Safety Code.

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

11 Sec. 142.153. GENERAL PROVISIONS RELATING TO AGREEMENTS.

12 (a) A municipality may not be denied local control over wages,
13 salaries, rates of pay, hours of employment, other terms and
14 conditions of employment, or other personnel issues on which the
15 public employer and an association that is recognized as the sole
16 and exclusive bargaining agent under Section 142.155 for all
17 emergency medical services personnel in the municipality agree.
18 The applicable statutes, local ordinances, and civil service rules
19 govern a term or condition of employment on which the public
20 employer and the association do not agree.

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

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

25 Sec. 142.154. STRIKES PROHIBITED. (a) A public employer
26 and an association recognized as the sole and exclusive bargaining
27 agent under Section 142.155 may meet and confer only if the

1 association does not advocate the illegal right to strike by public
2 employees.

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

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

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

13 Sec. 142.155. RECOGNITION OF EMERGENCY MEDICAL SERVICES
14 PERSONNEL ASSOCIATION. The governing body of a municipality may
15 recognize an association that submits a petition signed by a
16 majority of the emergency medical services personnel in the
17 municipality, excluding the head of the emergency medical services
18 department and any person who is exempt under Subsection (b), as the
19 sole and exclusive bargaining agent for all of the covered
20 emergency medical services personnel until recognition of the
21 association is withdrawn by a majority of the covered emergency
22 medical services personnel.

23 (b) For purposes of Subsection (a), exempt employees are
24 assistant department heads in the rank or classification
25 immediately below that of the department head and any other
26 employees who are designated as exempt or whose job titles are
27 designated as exempt by the mutual agreement of the recognized

1 association and the public employer.

2 Sec. 142.156. ELECTION. (a) Whether an association
3 represents a majority of the covered emergency medical services
4 personnel shall be resolved by a fair election, conducted according
5 to procedures agreed on by the parties, at which only a person
6 eligible to sign a petition under Section 142.155 may vote.

7 (b) If the parties are unable to agree on election
8 procedures under Subsection (a), a party may request the American
9 Arbitration Association to conduct the election and to certify the
10 results. Certification of the results of an election under this
11 subsection resolves the question concerning representation.

12 (c) The association shall pay the costs of an election under
13 this section, except that if two or more associations seeking
14 recognition as the bargaining agent submit petitions signed by a
15 majority of the covered emergency medical services personnel, the
16 associations shall share equally the costs of the election.

17 Sec. 142.1565. ELECTION TO AUTHORIZE OPERATING UNDER THIS
18 SUBCHAPTER. (a) If the governing body of a municipality does not
19 recognize an association that submits a petition under Section
20 142.155 and that has been determined by the governing body or under
21 Section 142.156 to represent a majority of the covered emergency
22 medical services personnel, the governing body shall order an
23 election to determine whether a public employer may meet and confer
24 under this subchapter.

25 (b) An election ordered under this section must be held as
26 part of the next regularly scheduled general election for municipal
27 officers that occurs after the date the governing body of the

1 municipality orders the election and that allows sufficient time to
2 prepare the ballot in compliance with other requirements of law.

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

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

14 (e) If an election under this section is held, the
15 municipality may operate under the other provisions of this
16 subchapter only if a majority of the votes cast at the election
17 favor the proposition.

18 (f) If an election under this section is held, an
19 association may not submit a petition for recognition to the
20 governing body of the municipality under Section 142.155 before the
21 second anniversary of the date of the election.

22 Sec. 142.157. SELECTION OF BARGAINING AGENTS. The public
23 employer's manager or chief executive, as appropriate, and the head
24 of the emergency medical services department shall designate a
25 group of persons to represent the public employer as its sole and
26 exclusive bargaining agent.

27 Sec. 142.158. OPEN RECORDS REQUIRED. (a) A proposed

1 agreement and any document prepared and used by the municipality in
2 connection with a proposed agreement are available to the public
3 under the public information law, Chapter 552, Government Code,
4 only after the agreement is ratified by the municipality's
5 governing body.

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

9 Sec. 142.159. RATIFICATION AND ENFORCEABILITY OF
10 AGREEMENT. (a) An agreement made under this subchapter between a
11 public employer and an association is binding on the public
12 employer, the association, and the emergency medical services
13 personnel covered by the agreement if:

14 (1) the municipality's governing body ratifies the
15 agreement by a majority vote; and

16 (2) the association recognized under Section 142.155
17 ratifies the agreement by a majority vote of its members voting in
18 an election by secret ballot at which only members of the
19 association who are eligible to sign a petition under Section
20 142.155 may vote.

21 (b) An agreement ratified as described by Subsection (a) may
22 establish a procedure by which the parties agree to resolve
23 disputes related to a right, duty, or obligation provided by the
24 agreement, including binding arbitration on interpretation of the
25 agreement.

26 (c) The state district court of the judicial district in
27 which the municipality is located has jurisdiction to hear and

1 resolve a dispute under the ratified agreement on the application
2 of a party to the agreement aggrieved by an act or omission of the
3 other party. The court may issue proper restraining orders,
4 temporary and permanent injunctions, or any other writ, order, or
5 process, including a contempt order, that is appropriate to enforce
6 the agreement.

7 Sec. 142.160. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

8 (a) An agreement under this subchapter supersedes a previous
9 statute concerning wages, salaries, rates of pay, hours of
10 employment, or other terms and conditions of employment to the
11 extent of any conflict with the statute.

12 (b) An agreement under this subchapter preempts any
13 contrary executive order, local ordinance, or rule adopted by this
14 state or a political subdivision or agent of this state, including a
15 personnel board, a civil service commission, or a municipality.

16 (c) An agreement under this subchapter may not diminish or
17 qualify any right, benefit, or privilege of an employee under this
18 chapter or other law unless approved by a majority vote by secret
19 ballot of the members of the association recognized under Section
20 142.155 at which only members of the association who are eligible to
21 sign a petition under Section 142.155 may vote.

22 Sec. 142.1605. ACTION OR ELECTION TO REPEAL AUTHORIZATION
23 TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a
24 municipality that granted recognition of an association under
25 Section 142.155 without conducting an election under Section
26 142.1565 may withdraw recognition of the association by providing
27 to 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 association after conducting an election under
7 Section 142.1565 may order an election to determine whether a
8 public employer may continue to meet and confer under this
9 subchapter. The governing body may not order an election under this
10 subsection until the second anniversary of the date of the election
11 under Section 142.1565.

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 allow 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 emergency medical services personnel as provided by state
23 law, preserving the prohibition against strikes and organized work
24 stoppages, and providing penalties for strikes and organized work
25 stoppages."

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

1 Election Code.

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

5 (g) If an election ordered under Subsection (b) is held, an
6 association may not submit a petition for recognition to the
7 governing body of the municipality under Section 142.155 before the
8 second anniversary of the date of the election.

9 Sec. 142.161. REPEAL OF AGREEMENT BY ELECTORATE. (a) Not
10 later than the 45th day after the date an agreement is ratified by
11 both the municipality and the association, a petition signed by at
12 least 10 percent of the qualified voters of the municipality may be
13 presented to the municipal secretary calling for an election to
14 repeal the agreement.

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

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

26 (d) The ballot for an election under this section shall be
27 printed to permit voting for or against the proposition: "Repeal of

1 the adoption of the agreement ratified by the municipality and the
2 emergency medical services personnel association concerning wages,
3 salaries, rates of pay, hours of employment, and other terms and
4 conditions of employment."

5 Sec. 142.162. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES.

6 (a) For the purpose of any disciplinary appeal, a member of the
7 association may choose to be represented by any person of the
8 member's choice or by the association.

9 (b) An agreement may not interfere with the right of a
10 member of the association to pursue allegations of discrimination
11 based on race, creed, color, national origin, religion, age, sex,
12 or disability with the civil rights division of the Texas Workforce
13 Commission or the federal Equal Employment Opportunity Commission
14 or to pursue affirmative action litigation.

15 Sec. 142.163. BINDING INTEREST ARBITRATION. (a) A
16 municipality may be required to submit to binding interest
17 arbitration only if approved by a majority of those voting in a
18 public referendum conducted in accordance with the municipality's
19 charter.

20 (b) Subsection (a) does not affect any disciplinary
21 arbitration or arbitration provision in a ratified agreement.

22 SECTION 2. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1104 passed the Senate on April 19, 2007, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 11, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1104 passed the House, with amendments, on May 9, 2007, by the following vote: Yeas 143, Nays 1, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor