

1-1 By: Watson S.B. No. 1104
1-2 (In the Senate - Filed March 2, 2007; March 14, 2007, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 11, 2007, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; April 11, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the conditions of employment for emergency medical
1-9 services personnel employed by certain municipalities.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 142, Local Government Code, is amended
1-12 by adding Subchapter D to read as follows:

1-13 SUBCHAPTER D. LOCAL CONTROL OF EMERGENCY MEDICAL SERVICES

1-14 PERSONNEL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

1-15 Sec. 142.151. APPLICABILITY. This subchapter applies only
1-16 to a municipality:

1-17 (1) with a population of 460,000 or more that operates
1-18 under a city manager form of government; and

1-19 (2) that employs emergency medical services personnel
1-20 in a municipal department other than the fire department.

1-21 Sec. 142.152. DEFINITIONS. In this subchapter:

1-22 (1) "Association" means an organization in which
1-23 emergency medical services personnel participate and that exists
1-24 for the purpose, wholly or partly, of dealing with one or more
1-25 public or private employers concerning grievances, labor disputes,
1-26 wages, rates of pay, hours of employment, or conditions of
1-27 employment affecting public employees.

1-28 (2) "Emergency medical services personnel" has the
1-29 meaning assigned by Section 773.003, Health and Safety Code. The
1-30 term applies only to an individual certified under Chapter 773,
1-31 Health and Safety Code.

1-32 (3) "Public employer" means a municipality or an
1-33 agency, board, commission, or political subdivision controlled by a
1-34 municipality that is required to establish the wages, salaries,
1-35 rates of pay, hours of employment, working conditions, and other
1-36 terms and conditions of employment of public employees. The term,
1-37 under appropriate circumstances, may include a mayor, manager,
1-38 municipal administrator, municipal governing body, director of
1-39 personnel, personnel board, or one or more other officials,
1-40 regardless of the name by which an official is designated.

1-41 Sec. 142.153. GENERAL PROVISIONS RELATING TO AGREEMENTS.

1-42 (a) A municipality may not be denied local control over wages,
1-43 salaries, rates of pay, hours of employment, other terms and
1-44 conditions of employment, or other personnel issues on which the
1-45 public employer and an association that is recognized as the sole
1-46 and exclusive bargaining agent under Section 142.155 for all
1-47 emergency medical services personnel in the municipality agree.
1-48 The applicable statutes, local ordinances, and civil service rules
1-49 govern a term or condition of employment on which the public
1-50 employer and the association do not agree.

1-51 (b) An agreement under this subchapter must be written.

1-52 (c) This subchapter does not require the public employer and
1-53 an association to meet and confer or reach an agreement on any
1-54 issue.

1-55 Sec. 142.154. STRIKES PROHIBITED. (a) A public employer
1-56 and an association recognized as the sole and exclusive bargaining
1-57 agent under Section 142.155 may meet and confer only if the
1-58 association does not advocate the illegal right to strike by public
1-59 employees.

1-60 (b) Emergency medical services personnel of a municipality
1-61 may not engage in a strike or organized work stoppage against this
1-62 state or a political subdivision of this state.

1-63 (c) Emergency medical services personnel who participate in
1-64 a strike forfeit all civil service rights, reemployment rights, and

2-1 other rights, benefits, or privileges enjoyed as a result of
 2-2 employment or previous employment with the municipality.

2-3 (d) This section does not affect the right of a person to
 2-4 cease employment if the person is not acting in concert with other
 2-5 emergency medical services personnel.

2-6 Sec. 142.155. RECOGNITION OF EMERGENCY MEDICAL SERVICES
 2-7 PERSONNEL ASSOCIATION. A public employer may recognize an
 2-8 association that submits a petition signed by a majority of the paid
 2-9 emergency medical services personnel in the municipality,
 2-10 excluding the head of the emergency medical services department and
 2-11 assistant department heads in the rank or classification
 2-12 immediately below that of the department head, as the sole and
 2-13 exclusive bargaining agent for all of the covered emergency medical
 2-14 services personnel until recognition of the association is
 2-15 withdrawn by a majority of the covered emergency medical services
 2-16 personnel.

2-17 Sec. 142.156. ELECTION. (a) Whether an association
 2-18 represents a majority of the covered emergency medical services
 2-19 personnel shall be resolved by a fair election, conducted according
 2-20 to procedures agreed on by the parties, at which only a person
 2-21 eligible to sign a petition under Section 142.155 may vote.

2-22 (b) If the parties are unable to agree on election
 2-23 procedures under Subsection (a), a party may request the American
 2-24 Arbitration Association to conduct the election and to certify the
 2-25 results. Certification of the results of an election under this
 2-26 subsection resolves the question concerning representation.

2-27 (c) The association shall pay the costs of an election under
 2-28 this section, except that if two or more associations seeking
 2-29 recognition as the bargaining agent submit petitions signed by a
 2-30 majority of the covered emergency medical services personnel, the
 2-31 associations shall share equally the costs of the election.

2-32 Sec. 142.157. SELECTION OF BARGAINING AGENTS. The public
 2-33 employer's manager or chief executive, as appropriate, and the head
 2-34 of the emergency medical services department shall designate a
 2-35 group of persons to represent the public employer as its sole and
 2-36 exclusive bargaining agent.

2-37 Sec. 142.158. OPEN RECORDS REQUIRED. (a) A proposed
 2-38 agreement and any document prepared and used by the municipality in
 2-39 connection with a proposed agreement are available to the public
 2-40 under the public information law, Chapter 552, Government Code,
 2-41 only after the agreement is ratified by the municipality's
 2-42 governing body.

2-43 (b) This section does not affect the application of
 2-44 Subchapter C, Chapter 552, Government Code, to a document prepared
 2-45 and used by the municipality in connection with the agreement.

2-46 Sec. 142.159. RATIFICATION AND ENFORCEABILITY OF
 2-47 AGREEMENT. (a) An agreement made under this subchapter between a
 2-48 public employer and an association is binding on the public
 2-49 employer, the association, and the emergency medical services
 2-50 personnel covered by the agreement if:

2-51 (1) the municipality's governing body ratifies the
 2-52 agreement by a majority vote; and

2-53 (2) the association recognized under Section 142.155
 2-54 ratifies the agreement by a majority vote of its members voting in
 2-55 an election by secret ballot at which only members of the
 2-56 association who are eligible to sign a petition under Section
 2-57 142.155 may vote.

2-58 (b) An agreement ratified as described by Subsection (a) may
 2-59 establish a procedure by which the parties agree to resolve
 2-60 disputes related to a right, duty, or obligation provided by the
 2-61 agreement, including binding arbitration on interpretation of the
 2-62 agreement.

2-63 (c) The state district court of the judicial district in
 2-64 which the municipality is located has jurisdiction to hear and
 2-65 resolve a dispute under the ratified agreement on the application
 2-66 of a party to the agreement aggrieved by an act or omission of the
 2-67 other party. The court may issue proper restraining orders,
 2-68 temporary and permanent injunctions, or any other writ, order, or
 2-69 process, including a contempt order, that is appropriate to enforce

3-1 the agreement.

3-2 Sec. 142.160. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

3-3 (a) An agreement under this subchapter supersedes a previous
3-4 statute concerning wages, salaries, rates of pay, hours of
3-5 employment, or other terms and conditions of employment to the
3-6 extent of any conflict with the statute.

3-7 (b) An agreement under this subchapter preempts any
3-8 contrary executive order, local ordinance, or rule adopted by this
3-9 state or a political subdivision or agent of this state, including a
3-10 personnel board, a civil service commission, or a municipality.

3-11 (c) An agreement under this subchapter may not diminish or
3-12 qualify any right, benefit, or privilege of an employee under this
3-13 chapter or other law unless approved by a majority vote by secret
3-14 ballot of the members of the association recognized under Section
3-15 142.155 at which only members of the association who are eligible to
3-16 sign a petition under Section 142.155 may vote.

3-17 Sec. 142.161. REPEAL OF AGREEMENT BY ELECTORATE. (a) Not
3-18 later than the 45th day after the date an agreement is ratified by
3-19 both the municipality and the association, a petition signed by at
3-20 least 10 percent of the qualified voters of the municipality may be
3-21 presented to the municipal secretary calling for an election to
3-22 repeal the agreement.

3-23 (b) On receipt by the municipal secretary of a petition
3-24 described by Subsection (a), the governing body of the municipality
3-25 shall reconsider the agreement and either repeal the agreement or
3-26 call an election of the qualified voters of the municipality to
3-27 determine if the voters favor repealing the agreement. The
3-28 election shall be called for the next election held in the
3-29 municipality that allows sufficient time to comply with applicable
3-30 provisions of law or at a special election called by the governing
3-31 body for that purpose.

3-32 (c) If at the election a majority of the votes cast favor
3-33 repeal of the adoption of the agreement, the agreement is void.

3-34 (d) The ballot for an election under this section shall be
3-35 printed to permit voting for or against the proposition: "Repeal of
3-36 the adoption of the agreement ratified by the municipality and the
3-37 emergency medical services personnel association concerning wages,
3-38 salaries, rates of pay, hours of employment, and other terms and
3-39 conditions of employment."

3-40 Sec. 142.162. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES.

3-41 (a) For the purpose of any disciplinary appeal, a member of the
3-42 association may choose to be represented by any person of the
3-43 member's choice or by the association.

3-44 (b) An agreement may not interfere with the right of a
3-45 member of the association to pursue allegations of discrimination
3-46 based on race, creed, color, national origin, religion, age, sex,
3-47 or disability with the civil rights division of the Texas Workforce
3-48 Commission or the federal Equal Employment Opportunity Commission
3-49 or to pursue affirmative action litigation.

3-50 Sec. 142.163. BINDING INTEREST ARBITRATION. (a) A
3-51 municipality may be required to submit to binding interest
3-52 arbitration only if approved by a majority of those voting in a
3-53 public referendum conducted in accordance with the municipality's
3-54 charter.

3-55 (b) Subsection (a) does not affect any disciplinary
3-56 arbitration or arbitration provision in a ratified agreement.

3-57 SECTION 2. This Act takes effect immediately if it receives
3-58 a vote of two-thirds of all the members elected to each house, as
3-59 provided by Section 39, Article III, Texas Constitution. If this
3-60 Act does not receive the vote necessary for immediate effect, this
3-61 Act takes effect September 1, 2007.

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