

By: Gallegos

S.B. No. 1925

A BILL TO BE ENTITLED

AN ACT

relating to conditions of employment for deputy sheriffs employed by sheriff's departments in certain counties.

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

SECTION 1. Subtitle B, Title 5, Local Government Code, is amended by adding Chapter 161 to read as follows:

CHAPTER 161. LOCAL CONTROL OF DEPUTY SHERIFF EMPLOYMENT

MATTERS IN CERTAIN COUNTIES

Sec. 161.001. APPLICABILITY. (a) Except as provided by Subsection (b), this chapter applies only to a sheriff's department in a county with a population of three million or more that employs deputy sheriffs.

(b) This chapter does not apply to a sheriff's department in a county that has adopted Chapter 174.

Sec. 161.002. DEFINITIONS. In this chapter:

(1) "Association" means an employee organization in which deputy sheriffs employed by a sheriff's department in a county participate and that exists for the purpose, in whole or in part, of dealing with the county or the head of any law enforcement agency of the county concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting deputy sheriffs.

(2) "Deputy sheriff" means a person who is a peace officer under Article 2.12(1), Code of Criminal Procedure, and who

1 is employed by a sheriff's department in a county to which this
2 chapter applies.

3 (3) "Public employer" means a county or any law
4 enforcement agency of the county that is required to establish the
5 wages, salaries, rates of pay, hours of work, working conditions,
6 and other terms and conditions of employment of deputy sheriffs
7 employed by the county.

8 Sec. 161.003. PETITION FOR RECOGNITION: ELECTION OR ACTION
9 BY COUNTY COMMISSIONERS. (a) Not later than the 30th day after the
10 date the commissioners court of a county receives a petition signed
11 by the majority of all deputy sheriffs, excluding the head of any
12 law enforcement agency for the county and the employees exempt
13 under Section 161.006(b), requesting recognition of an association
14 or associations as the exclusive bargaining agent for the nonexempt
15 deputy sheriffs as described by Subsection (b), the commissioners
16 court shall:

17 (1) grant recognition of the association or
18 associations as requested in the petition and find that the public
19 employers may meet and confer under this chapter; or

20 (2) order a certification election under Section
21 161.004 to determine whether the association or associations
22 represent a majority of the affected deputy sheriffs.

23 (b) The petition described by Subsection (a) must state
24 whether the petitioners request recognition of:

25 (1) one association to represent all deputy sheriffs
26 employed by the county, excluding the head of any law enforcement
27 agency and the deputy sheriffs exempt under Section 161.006(b); or

1 (2) more than one association to represent certain
2 deputy sheriffs employed by any county law enforcement agency in a
3 law enforcement position, excluding the head of any law enforcement
4 agency and the deputy sheriffs exempt under Section 161.006(b).

5 (c) If the commissioners court orders a certification
6 election under Subsection (a)(2) and the association or
7 associations named in the petition are certified to represent a
8 majority of the affected deputy sheriffs, the court shall, not
9 later than the 30th day after the date that results of that election
10 are certified, grant recognition of the association or associations
11 as requested in the petition for recognition and find that a public
12 employer may meet and confer under this chapter.

13 Sec. 161.004. CERTIFICATION ELECTION. (a) Except as
14 provided by Subsection (b), a certification election ordered under
15 Section 161.003(a)(2) to determine whether an association or
16 associations represent a majority of the covered deputy sheriffs
17 shall be conducted according to procedures agreeable to the
18 parties.

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

23 (c) Certification of the results of an election under this
24 section resolves the question concerning representation.

25 (d) The association or associations named in the petition
26 are liable for the expenses of the certification election, except
27 that if one or more other associations seeking recognition as the

1 exclusive bargaining agent submit a petition signed by a majority
2 of the affected deputy sheriffs eligible to sign the petition for
3 recognition, all associations named in any petition shall share
4 equally the costs of the election.

5 Sec. 161.005. STRIKES PROHIBITED. (a) A deputy sheriff may
6 not engage in a strike or organized work stoppage against this state
7 or the county.

8 (b) A deputy sheriff who participates in a strike forfeits
9 any civil service rights, reemployment rights, and other rights,
10 benefits, or privileges the deputy sheriff may have as a result of
11 the deputy sheriff's employment or prior employment with the
12 county.

13 (c) This section does not affect the right of a deputy
14 sheriff to cease work if the deputy sheriff is not acting in concert
15 with others in an organized work stoppage.

16 Sec. 161.006. RECOGNITION OF ASSOCIATION BY PUBLIC
17 EMPLOYER. (a) A public employer in a county that chooses to meet
18 and confer under this chapter shall recognize an association that
19 is recognized under Section 161.003 or 161.004 as the exclusive
20 bargaining agent for the covered deputy sheriffs under this
21 chapter. The covered deputy sheriffs are the deputy sheriffs
22 described in the applicable petition for recognition, but the
23 covered deputy sheriffs do not include the head of any law
24 enforcement agency or the employees exempt under Subsection (b).

25 (b) For the purposes of Subsection (a), exempt employees are
26 the sheriff and the deputy sheriffs that the sheriff designates as
27 exempt in the manner prescribed by Subchapter B, Chapter 158, if the

1 sheriff's department is operating under that subchapter, or that
2 are exempt by the mutual agreement of the recognized association
3 and the sheriff.

4 (c) The public employer shall recognize the association
5 until recognition of the association is withdrawn by a majority of
6 the deputy sheriffs eligible to sign a petition for recognition.

7 Sec. 161.007. GENERAL PROVISIONS RELATING TO AGREEMENTS.

8 (a) A county may not be denied local control over the wages,
9 salaries, rates of pay, hours of work, or other terms and conditions
10 of employment to the extent a public employer that is a party to the
11 agreement and an association recognized as an exclusive bargaining
12 agent agree as provided by this chapter, if the agreement is
13 ratified and not repealed under this chapter. Applicable statutes
14 and applicable local orders, ordinances, and civil service rules
15 apply to an issue not governed by the agreement.

16 (b) A meet and confer agreement under this chapter must be
17 written.

18 (c) This chapter does not require a public employer or a
19 recognized association to meet and confer on any issue or reach an
20 agreement.

21 (d) A public employer and a recognized association may meet
22 and confer only if the association does not advocate an illegal
23 strike by public employees.

24 Sec. 161.008. OPEN RECORDS. (a) A proposed meet and confer
25 agreement and a document prepared and used by the county or a public
26 employer in connection with the proposed agreement are available to
27 the public under Chapter 552, Government Code, only after the

1 agreement is ratified by the commissioners court of the county.

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

5 Sec. 161.009. RATIFICATION AND ENFORCEABILITY OF
6 AGREEMENT. (a) A meet and confer agreement under this chapter is
7 enforceable and binding on the county, the sheriff, the applicable
8 recognized association, and the deputy sheriffs covered by the
9 agreement only if:

10 (1) the commissioners court of the county ratified the
11 agreement by a majority vote; and

12 (2) the applicable recognized association ratified
13 the agreement by conducting a secret ballot election at which the
14 deputy sheriffs that were represented by the association were
15 eligible to vote, and a majority of the votes cast at the election
16 avored ratifying the agreement.

17 (b) A state district court of a judicial district in which
18 the county is located has jurisdiction to hear and resolve a dispute
19 under the ratified meet and confer agreement on the application of a
20 party to the agreement aggrieved by an action or omission of the
21 other party when the action or omission is related to a right, duty,
22 or obligation provided by the agreement. The court may issue proper
23 restraining orders, temporary and permanent injunctions, or any
24 other writ, order, or process, including contempt orders, that are
25 appropriate to enforcing the agreement.

26 Sec. 161.010. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

27 (a) A written meet and confer agreement ratified under this chapter

1 preempts, during the term of the agreement and to the extent of any
2 conflict, all contrary state statutes, local ordinances, executive
3 orders, civil service provisions, or rules adopted by the sheriff
4 or the county, or by a division or agent of the sheriff or the
5 county, such as a personnel board or a civil service commission.

6 (b) A meet and confer agreement ratified under this chapter
7 may not diminish or qualify any right, benefit, or privilege of a
8 deputy sheriff under this chapter or other law unless approved by a
9 majority of the votes received in a secret ballot referendum of the
10 members of the recognized association.

11 Sec. 161.011. PROTECTED RIGHTS. (a) For any disciplinary
12 appeal, a covered deputy sheriff may be represented by a recognized
13 association or by any person chosen by the deputy sheriff.

14 (b) A meet and confer agreement ratified under this chapter
15 may not interfere with the right of a covered deputy sheriff to
16 pursue allegations of discrimination based on race, creed, color,
17 national origin, religion, age, sex, or disability with the Texas
18 Workforce Commission civil rights division or the federal Equal
19 Employment Opportunity Commission or to pursue affirmative action
20 litigation.

21 Sec. 161.012. ELECTION TO REPEAL AGREEMENT. (a) Not later
22 than the 45th day after the date a meet and confer agreement is
23 ratified by the commissioners court and a recognized association, a
24 petition calling for the repeal of the agreement signed by at least
25 10 percent of the registered voters residing in the county may be
26 presented to the commissioners court.

27 (b) If a petition is presented under Subsection (a), the

1 commissioners court shall order an election by the voters in the
2 county to determine whether to repeal the meet and confer
3 agreement.

4 (c) An election ordered under Subsection (b) shall be held
5 as part of the next regularly scheduled general election for the
6 county for which there remains sufficient time to add the question
7 to the ballot. The ballot shall be printed to provide for voting
8 for or against the proposition: "Repeal the meet and confer
9 agreement ratified on _____ (date agreement was ratified) by the
10 commissioners court and _____ (name of the association)
11 concerning wages, salaries, rates of pay, hours of work, and other
12 terms of employment of certain county deputy sheriffs."

13 (d) If a majority of the votes cast at the election favor the
14 repeal of the meet and confer agreement, the agreement is void.

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