

BILL ANALYSIS

Senate Research Center

S.B. 1744
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since 1947, except in certain cases specifically authorized by the Texas Legislature, Texas peace officer associations have not been able to legally "meet and confer," or reach agreements with their employers on issues concerning staffing, pay, benefits, equipment, or training. Unlike requirements in collective bargaining, meet and confer practices have been successful because they are interest-based negotiations in which neither the employer nor the employee is mandated to meet or come to an agreement.

Meet and confer rights have been granted by the legislature to the Houston Fire Department (1993), Austin Police Department and Fire Department (1995), the Houston Police Department (1997), the Fort Worth Police and Fire Department (2001), and the Houston Metropolitan Transit Authority Police Department (2001).

As proposed, S.B. 1744 allows for an association representing law enforcement and correctional officers employed by a county with a population of 3.3 million or more to meet and confer with the public employer concerning wage and employment conditions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 5, Local Government Code, by adding Chapter 161, as follows:

CHAPTER 161. LOCAL CONTROL OF SHERIFF'S DEPARTMENT EMPLOYMENT MATTERS IN CERTAIN COUNTIES

Sec. 161.001. **APPLICABILITY.** (a) Provides that, except as provided by Subsection (b), this chapter applies only to a county with a population of 3.3 million or more that employs law enforcement officers or corrections officers covered by Subchapter B (Sheriff's Department Civil Service System in Certain Counties), Chapter 158 (County Civil Service) and contains a municipality with a population of more than 600,000 that has adopted Chapter 174 (Fire and Police Employee Relations) for its fire department, police department, or both.

[Bill as drafted does not contain a Subsection (b) in this section.]

Sec. 161.002. **DEFINITIONS.** Defines "association," "corrections officer," "law enforcement officer," and "public employer."

Sec. 161.003. **PETITION FOR RECOGNITION: ELECTION OR ACTION BY COUNTY COMMISSIONERS.** (a) Requires the commissioners court, not later than the 30th day after the date the commissioners court of a county receives a petition signed by the majority of all law enforcement officers and corrections officers, excluding the employees exempt under Section 161.006(b), requesting recognition of an association or associations as the exclusive bargaining agent for the nonexempt law enforcement officers or corrections officers as described by Subsection (b), to grant recognition of the

association or associations as requested in the petition and find that the public employers are authorized to meet and confer under this chapter without conducting an election by the voters in the county under Section 161.004 or to defer granting recognition of the association or associations and order an election by the voters in the county under Section 161.004 regarding whether the public employers are authorized to meet and confer under this chapter.

(b) Requires that the petition described by Subsection (a) state whether the petitioners request recognition of:

(1) one association to represent all law enforcement officers and corrections officers employed by the sheriff's department, excluding the officers exempt under Section 161.006(b); or

(2) two associations, with one association to exclusively represent law enforcement officers employed by a sheriff's department, excluding the officers exempt under Section 161.006(b), and one association to exclusively represent corrections officers employed by a sheriff's department, excluding the officers exempt under Section 161.006(b).

(c) Prohibits the commissioners court from considering a petition for recognition of two associations as requested under Subsection (b)(2) unless:

(1) the total number of law enforcement officers employed by the sheriff's department constitutes 10 percent or more of the total number of law enforcement officers and corrections officers employed by the sheriff's department;

(2) the total number of corrections officers employed by the sheriff's department constitutes 10 percent or more of the total number of law enforcement officers and corrections officers employed by the sheriff's department;

(3) the petitioners request recognition of one association to exclusively represent all law enforcement officers and one association to exclusively represent all corrections officers; and

(4) the commissioners court considers each petition described by Subdivision (3) at the same time, and both petitions are granted or denied at that time.

Sec. 161.004. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER.

(a) Authorizes the commissioners court of a county that receives a petition for recognition under Section 161.003 to order an election to determine whether the public employers are authorized to meet and confer under this chapter.

(b) Requires that an election under this section be held on the first authorized uniform election date prescribed by Chapter 41 (Election Dates and Hours for Voting), Election Code, that occurs after the date the commissioners court orders the election and that allows sufficient time to comply with other requirements of law.

(c) Requires that the ballot for an election called under this section be printed to allow voting for or against the proposition that includes certain language.

(d) Requires that an election called under this section be held and the returns prepared and canvassed in conformity with the Election Code.

(e) Authorizes the county, if an election authorized under this section is held, to operate under the other provisions of this chapter only if a majority of the votes cast at the election favor the proposition.

(f) Prohibits an association or associations, if an election authorized under this section is held, from submitting a petition for recognition to the commissioners court of the county under Section 161.003 before the first anniversary of the date of the election.

Sec. 161.005. **STRIKES PROHIBITED.** (a) Prohibits a law enforcement officer or corrections officer from engaging in a strike or organized work stoppage against this state or the county.

(b) Provides that a law enforcement officer or corrections officer who participates in a strike forfeits any civil service rights, reemployment rights and other rights, benefits, or privileges the officer is authorized to have as a result of the officer's employment or prior employment with the county.

(c) Provides that this section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Sec. 161.006. **RECOGNITION OF ASSOCIATION BY PUBLIC EMPLOYER.** (a) Requires a public employer in a county that chooses to meet and confer under this chapter, except as provided by Subsection (c), to recognize an association that is recognized under Section 161.003 as the exclusive bargaining agent for the covered law enforcement officers or corrections officers, or both, under this chapter. Provides that the covered officers are the officers described in the applicable petition for recognition, but the covered officers do not include the employees exempt under Subsection (b).

(b) Provides that exempt employees, for the purposes of Subsection (a), are the sheriff and the employees that the sheriff designates as exempt in the manner prescribed by Subchapter B, Chapter 158, or that are exempt by the mutual agreement of the recognized association and the sheriff.

(c) Requires the public employer to recognize the association until:

(1) if an association is recognized under Section 161.003(b)(1), recognition of the association is withdrawn by a majority of the law enforcement officers and corrections officers; or

(2) if an association is recognized under Section 161.003(b)(2): recognition of the association is withdrawn by a majority of the law enforcement officers or corrections officers, as applicable, or the total number of law enforcement officers employed by the sheriff's department or the total number of corrections officers employed by the sheriff's department decreases to an amount that is less than 10 percent of the total number of law enforcement officers and corrections officers employed by the sheriff's department.

(d) Requires the association exclusively representing the law enforcement officers, if recognition of an association is withdrawn as provided by Subsection (c)(2), to merge with the association exclusively representing corrections officers.

Sec. 161.007. **SELECTION OF BARGAINING AGENT; PUBLIC EMPLOYER BARGAINING TEAM.** (a) Requires each public employer's chief executive officer or the chief executive officer's designee to select one or more persons to represent the public employer as its exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of law enforcement officers and corrections officers for whom the public employer is responsible. Authorizes the sheriff to represent the office of the sheriff or select one or more persons to represent the sheriff as the exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of law enforcement officers and corrections officers.

(b) Authorizes an association recognized under this chapter to designate one or more persons to negotiate or bargain on its behalf.

(c) Authorizes the representatives of each public employer that has selected one or more persons under subsection (a) to form a bargaining team. Authorizes the team to negotiate provisions applicable to all represented public employers. Authorizes appropriate representatives on the team to negotiate provisions applicable to only one public employer or to some but not all of the represented public employers.

(d) Authorizes an association recognized under this chapter to represent law enforcement officers and an association recognized under this chapter to represent corrections officers to form a bargaining team. Authorizes the team to negotiate an agreement with any public employer or the sheriff.

Sec. 161.008. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) Prohibits a county from denying local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent a public employer that is a party to the agreement and an association recognized as an exclusive bargaining agent agree as provided by this chapter, if the agreement is ratified and not repealed under this chapter. Provides that applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the agreement.

(b) Requires that a meet and confer agreement under this chapter be written.

(c) Provides that this chapter does not require a public employer or a recognized association to meet and confer on any issue or reach an agreement.

(d) Authorizes a public employer and a recognized association to meet and confer only if the association does not advocate an illegal strike.

Sec. 161.009. OPEN RECORDS. (a) Provides that a proposed meet and confer agreement and a document prepared and used by the public employer in connection with the proposed agreement are available to the public under Chapter 552 (Public Information), Government Code, only after the agreement is ratified by the commissioners court of the county.

(b) Provides that this section does not affect the application of Subchapter C (Information Excepted from Required Disclosure), Chapter 552, Government Code, to a document prepared and used by the public employer in connection with the agreement.

Sec. 161.010. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) Provides that a meet and confer agreement under this chapter is enforceable and binding on the public employer, the applicable recognized association, and the law enforcement officers or corrections officers, or both, covered by the agreement only if:

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

(2) the applicable recognized association ratified the agreement by conducting a secret ballot election at which only the law enforcement officers or corrections officers, or both, that were represented by the association were eligible to vote, and a majority of the votes cast at the election favored ratifying the agreement.

(b) Authorizes a meet and confer agreement ratified as described by Subsection (a) to establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) Provides that a meet and confer agreement under this chapter is enforceable and binding on the sheriff, the applicable recognized association, and the law enforcement officers or corrections officers, or both, covered by the agreement only if the sheriff ratified the agreement by written signature and the applicable recognized association ratified the agreement by conducting a secret ballot in the manner described by Subsection (a)(2).

(d) Provides that a state district court of a judicial district in which the county is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provide by the agreement. Authorizes the court to issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Sec. 161.011. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. Provides that a written meet and confer agreement ratified under this chapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, executive orders, civil service provisions, or rules adopted by a personnel board or a civil service commission.

Sec. 161.012. PROTECTED RIGHTS. (a) Authorizes a covered law enforcement officer or corrections officer, for any disciplinary appeal, to be represented by a recognized association or by any person chosen by the officer.

(b) Prohibits a meet and confer agreement ratified under this chapter from interfering with the right of a covered law enforcement officer or corrections officer to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Sec. 161.013. ELECTION TO REPEAL AGREEMENT. (a) Authorizes a petition calling for the repeal of the agreement signed by at least 10 percent of the registered voters residing in the county, not later than the 60th day after the date a meet and confer agreement is ratified by the public employer and a recognized association, to be presented to the commissioners court.

(b) Requires the commissioners court, if a petition is presented under Subsection (a), to order an election by the voters in the county to determine whether to repeal the meet and confer agreement.

(c) Requires that an election ordered under Subsection (b) be held as part of the next regularly scheduled general election for the county for which there remains sufficient time to add the question to the ballot. Requires that the ballot be printed to provide for voting for or against the proposition and sets forth certain language on the ballot.

(d) Provides that if a majority of the votes cast at the election favor the repeal of the meet and confer agreement, the agreement is void.

(e) Prohibits a public employer and a recognized association from negotiating a new meet and confer agreement before the 181st day after the date a meet and confer agreement is repealed at an election under this section.

SECTION 2. Effective date: upon passage or September 1, 2009.