

BILL ANALYSIS

Senate Research Center
81R22847 JSC-F

C.S.S.B. 2447
By: Uresti, Van de Putte
Intergovernmental Relations
5/7/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law does not allow employees of Bexar County to meet and confer with the county regarding labor issues.

C.S.S.B. 2447 grants public employee associations of a county with a population of one million or more persons that has adopted a resolution or policy providing for a consultation system, the right to meet and confer with a public employer over issues such as wages, hours, working conditions, and all other terms and conditions of employment. The bill also prohibits employees who participate in these organizations from engaging in strikes and work stoppages.

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 162, as follows:

CHAPTER 162. LOCAL CONTROL OF EMPLOYMENT MATTERS IN CERTAIN COUNTIES

Sec. 162.001. **APPLICABILITY.** (a) Provides that this chapter applies only to a county with a population of more than one million in which more than 80 percent of the population lives in a single municipality, and that has adopted a resolution or policy providing for a consultation system in which the county will meet or consult with an employee association representing employees if the association demonstrates that the association is supported by at least 30 percent of the employees eligible to participate.

(b) Provides that this chapter does not apply to police officers who are covered by Chapter 174 (Fire and Police Employee Relations) or an employee association in which employees described by Subdivision (1) participate.

Sec. 162.002. **DEFINITIONS.** Defines "covered employee," "employee association," and "public employer."

Sec. 162.003. **GENERAL PROVISIONS RELATING TO AGREEMENTS AND RECOGNITION.** (a) Prohibits a county from being denied local control over wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other state-mandated personnel issues. Authorizes a public employer to enter into a mutual agreement governing these issues with an employee association recognized under this chapter as the sole and exclusive bargaining agent for all covered employees that does not advocate the illegal right to strike by county employees. Provides that the applicable statutes, local orders or ordinances, and civil service rules govern a term or condition of employment on which the public employer and the association do not agree.

(b) Requires that an agreement under this chapter be written.

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

(d) Provides that this chapter does not authorize an agreement regarding pension or pension-related matters governed by Subtitle F (Texas County and District Retirement System), Title 8 (Public Retirement Systems), Government Code.

Sec. 162.004. PETITION FOR RECOGNITION: ELECTION OR ACTION BY COMMISSIONERS COURT. (a) Requires the commissioners court to carry out certain tasks not later than the 30th day after the date the commissioners court of a county receives from an employee association a petition signed by the majority of all covered employees of the county that requests recognition of the association as the sole and exclusive bargaining agent for all the covered employees of that employer.

(b) Requires the commissioners court to carry out certain tasks not later than the 30th day after the date that results of that election are certified, if the commissioners court of a county orders a certification election under Subsection (a) (3) (relating to ordering a certification election) and the association named in the petition is certified to represent a majority of the covered employees.

Sec. 162.005. CERTIFICATION ELECTION. (a) Requires that a certification election ordered under Section 162.004(a)(3) to determine whether an employee association represents a majority of the covered employees be conducted according to procedures agreeable to the parties, except as provided by Subsection (b).

(b) Authorizes either party to request the American Arbitration Association to conduct the election and to certify the results of the election if the parties are unable to agree on procedures for the certification election.

(c) Requires that the results of an election be certified if the employee association receives a majority of valid votes cast in the election.

(d) Provides that certification of the results of an election under this section resolves the question concerning representation.

(e) Provides that the association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the employees eligible to sign the petition for recognition, all the associations named in any petition are required to share equally the costs of the election.

Sec. 162.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER.

(a) Authorizes the commissioners court of a county that receives a petition for recognition under Section 162.004 to order an election to determine whether a public employer may meet and confer under this chapter.

(b) Requires that an election ordered under this section be held as part of the next regularly scheduled general election for county officials that is held after the date the commissioners court of the county orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) Requires that the ballot for an election ordered under this section be printed using a certain format to permit voting for or against the proposition.

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

(f) Prohibits an association from submitting a petition for recognition to the commissioners court of the county under Section 162.004 before the second anniversary of the date of the election if an election authorized under this section is held.

Sec. 162.007. CHANGE OR MODIFICATION OF RECOGNITION. (a) Authorizes the county employees to modify or change the recognition of the employee association granted under this chapter by filing with the commissioners court of the county a petition signed by a majority of all covered employees.

(b) Authorizes the commissioners court of the county to recognize the change or modification as provided by the petition or order a certification election in accordance with Section 162.005 regarding whether to do so.

Sec. 162.008. STRIKES PROHIBITED. (a) Prohibits a county employee from engaging in a strike or organized work stoppage against this state or the county.

(b) Provides that a county employee who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the employee may have as a result of the employee'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. 162.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) Requires a public employer that chooses to meet and confer under this chapter to recognize an association that is recognized under Section 162.004 or 162.005 as the sole and exclusive bargaining agent for the covered employees of that employer.

(b) Requires the public employer to recognize the employee association until recognition of the association is withdrawn, in accordance with Section 162.007, by a majority of the county employees eligible to sign a petition for recognition.

Sec. 162.010. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) Requires the county judge to select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of county employees.

(b) Authorizes an employee association to designate one or more persons to negotiate or bargain on the association's behalf.

(c) Provides that a county's bargaining unit is composed of all the covered employees of the county.

Sec. 162.011. PROTECTED RIGHTS OF EMPLOYEES. Prohibits a meet and confer agreement ratified under this chapter from interfering with the right of a member of a bargaining unit 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. 162.012. OPEN RECORDS. (a) Provides that a proposed meet and confer agreement is available to the public under Chapter 552 (Public Information), Government Code, only after the agreement is ready to be 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 in connection with the agreement.

Sec. 162.013. OPEN DELIBERATIONS. (a) Requires that deliberations relating to a meet and confer agreement or proposed agreement under this chapter between representatives of the county and representatives of the employee association recognized under this chapter as the sole and exclusive bargaining agent for the covered employees be open to the public and comply with state law.

(b) Prohibits Subsection (a) from being construed to prohibit the representatives of the county or the representatives of the recognized employee association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Sec. 162.014. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) Provides that an agreement under this chapter is enforceable and binding on the county, the recognized employee association, and the employees covered by the meet and confer agreement only if certain requirements are met.

(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 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 provided 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. 162.015. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS CHAPTER. (a) Authorizes the commissioners court of a county that granted recognition of an employee association under Section 162.004 without conducting an election under Section 162.006 to withdraw recognition of the association by providing to the association not less than 90 days' written notice that meets certain requirements.

(b) Authorizes the commissioners court of a county that granted recognition of an employee association after conducting an election under Section 162.006 to order an election to determine whether a public employer may continue to meet and confer under this chapter. Prohibits the commissioners court from ordering an election under this subsection until the second anniversary of the date of the election under Section 162.006.

(c) Requires that an election ordered under Subsection (b) be held as part of the next regularly scheduled general election for county officers that occurs after the date the commissioners court of the county orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) Requires that the ballot for an election ordered under Subsection (b) be printed using a certain format to permit voting for or against the proposition.

(e) Requires that an election ordered under Subsection (b) be held and the returns prepared and canvassed in conformity with the Election Code.

(f) Authorizes the county to continue to operate under this chapter only if a majority of the votes cast at the election favor the proposition if an election ordered under Subsection (b) is held.

(g) Prohibits an association from submitting a petition for recognition to the commissioners court of the county under Section 162.004 before the second anniversary of the date of the election if an election ordered under Subsection (b) is held.

Sec. 162.016. ELECTION TO REPEAL AGREEMENT. (a) Authorizes a petition calling for the repeal of the agreement signed by at least 10 percent of the qualified voters residing in the county to be presented to the person charged with ordering an election under Section 3.004 (Election of Political Subdivision), Election Code, not later than the 45th day after the date a meet and confer agreement is ratified by the commissioners court of the county and the recognized employee association.

(b) Requires the commissioners court of the county, if a petition is presented under Subsection (a) to repeal the meet and confer agreement, or certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) Authorizes an election called under Subsection (b)(2) to be held as part of the next regularly scheduled general election for the county or at a special election called by the commissioners court for that purpose. Requires that the ballot be printed using a certain format to permit voting for or against the proposition.

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

Sec. 162.017. 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, local orders or ordinances, executive orders, civil service provisions, or rules adopted by this state or a political subdivision or agent of this state, including a personnel governing body, civil service commission, or county, other than a statute, order, ordinance, executive order, civil service provision, or rule regarding pensions or pension-related matters.

SECTION 2. Effective date: September 1, 2009.