

By: Coleman

H.B. No. 4649

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain school districts to maintain local control over wages, hours, and other terms and conditions of employment.

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

SECTION 1. Chapter 11, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. LOCAL CONTROL OF EMPLOYMENT MATTERS IN CERTAIN SCHOOL DISTRICTS

Sec. 11.401. APPLICABILITY. This subchapter applies only to a school district with a student enrollment of 180,000 or more for the 2008-2009 school year.

Sec. 11.402. DEFINITION. In this subchapter, "employee association" means an organization in which school district employees participate and that exists for the purpose, wholly or partly, of dealing with one or more districts concerning employee grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work affecting district employees whose members pay dues.

Sec. 11.403. GENERAL PROVISIONS RELATING TO AGREEMENTS AND RECOGNITION. (a) Notwithstanding any other provision of this code, a school district to which this subchapter applies may not be denied local control over the wages, rates of pay, hours of employment, other terms and conditions of employment, or other

1 personnel issues. The board of trustees of the district may enter  
2 into a mutual agreement governing those issues with an employee  
3 association recognized under this subchapter as the sole and  
4 exclusive bargaining agent for all district employees that does not  
5 advocate any illegal right to strike by district employees. Any  
6 applicable statutes govern a term or condition of employment on  
7 which the board of trustees and the association do not agree.

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

9 (c) This subchapter does not require the board of trustees  
10 of the school district and the recognized employee association to  
11 meet and confer or reach an agreement on any issue.

12 (d) This subchapter does not authorize an agreement  
13 regarding pension or pension-related matters governed by Subtitle  
14 C, Title 8, Government Code.

15 Sec. 11.404. PETITION FOR RECOGNITION: ELECTION OR ACTION  
16 BY GOVERNING BODY. (a) Not later than the 30th day after the date  
17 the board of trustees of a school district receives from an employee  
18 association a petition signed by the majority of all district  
19 employees that requests recognition of the association as the sole  
20 and exclusive bargaining agent for all the district employees, the  
21 board of trustees shall:

22 (1) grant recognition of the association as requested  
23 in the petition and find that the board of trustees may meet and  
24 confer under this subchapter; or

25 (2) order a certification election under Section  
26 11.405 to determine whether the association represents a majority  
27 of the district employees.

1        (b) If the board of trustees of a school district orders a  
2 certification election under Subsection (a)(2) and the association  
3 named in the petition is certified to represent a majority of the  
4 district employees, the board of trustees shall, not later than the  
5 30th day after the date that results of that election are certified,  
6 grant recognition of the association as requested in the petition  
7 for recognition and find that the board of trustees may meet and  
8 confer under this subchapter.

9        Sec. 11.405. CERTIFICATION ELECTION. (a) Except as  
10 provided by Subsection (b), a certification election ordered under  
11 Section 11.404(a)(2) to determine whether an employee association  
12 represents a majority of the covered employees shall be conducted  
13 according to procedures agreeable to the parties.

14        (b) If the parties are unable to agree on procedures for the  
15 certification election, either party may request the American  
16 Arbitration Association to conduct the election and to certify the  
17 results of the election.

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

20        (d) The association is liable for the expenses of the  
21 certification election, except that if two or more associations  
22 seeking recognition as the sole and exclusive bargaining agent  
23 submit a petition signed by at least 30 percent of the employees  
24 eligible to sign the petition for recognition, all the associations  
25 named in any petition shall share equally the costs of the election.

26        Sec. 11.406. CHANGE OR MODIFICATION OF RECOGNITION. (a)  
27 The school district employees may modify or change the recognition

1 of the employee association granted under this subchapter by filing  
2 with the board of trustees of the district a petition signed by a  
3 majority of all district employees.

4 (b) The board of trustees of the school district may:

5 (1) recognize the change or modification as provided  
6 by the petition; or

7 (2) order a certification election in accordance with  
8 Section 11.405 regarding whether to do so.

9 Sec. 11.407. STRIKES PROHIBITED. (a) A school district  
10 employee may not engage in a strike or organized work stoppage  
11 against this state or the district.

12 (b) A school district employee who participates in a strike  
13 forfeits any rights, benefits, or privileges the employee may have  
14 as a result of the employee's employment or prior employment with  
15 the district.

16 (c) This section does not affect the right of a person to  
17 cease work if the person is not acting in concert with others in an  
18 organized work stoppage.

19 Sec. 11.408. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) The  
20 board of trustees of a school district that chooses to meet and  
21 confer under this subchapter shall recognize an association that is  
22 recognized under Section 11.404 or 11.405 as the sole and exclusive  
23 bargaining agent for the district employees.

24 (b) The board of trustees of the school district shall  
25 recognize the association until recognition of the association is  
26 withdrawn, in accordance with Section 11.406, by a majority of the  
27 district employees eligible to sign a petition for recognition.

1       Sec. 11.409. SELECTION OF BARGAINING AGENT; BARGAINING  
2 UNIT. (a) The board of trustees of the school district or the  
3 board's designee shall select one or more persons to represent the  
4 district as its sole and exclusive bargaining agent to meet and  
5 confer on issues related to the wages, rates of pay, hours of  
6 employment, and other terms and conditions of employment of  
7 district employees.

8       (b) An employee association may designate one or more  
9 persons to negotiate or bargain on the association's behalf.

10       (c) A school district's bargaining unit is composed of all  
11 the district employees.

12       Sec. 11.410. PROTECTED RIGHTS OF EMPLOYEES. A meet and  
13 confer agreement ratified under this subchapter may not interfere  
14 with the right of a member of a bargaining unit to pursue  
15 allegations of discrimination based on race, creed, color, national  
16 origin, religion, age, sex, or disability with the Texas Workforce  
17 Commission civil rights division or the federal Equal Employment  
18 Opportunity Commission or to pursue affirmative action litigation.

19       Sec. 11.411. OPEN RECORDS. (a) A proposed meet and confer  
20 agreement and a document prepared and used by the school district in  
21 connection with the proposed agreement are available to the public  
22 under Chapter 552, Government Code, only after the agreement is  
23 ready to be ratified by the board of trustees of the district.

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

27       Sec. 11.412. OPEN DELIBERATIONS. (a) Deliberations

1 relating to a meet and confer agreement or proposed agreement under  
2 this subchapter between representatives of the school district and  
3 representatives of the employee association recognized under this  
4 subchapter as the sole and exclusive bargaining agent for the  
5 district's employees must be open to the public and comply with  
6 state law.

7 (b) Subsection (a) may not be construed to prohibit the  
8 representatives of the school district or the representatives of  
9 the recognized employee association from conducting private  
10 caucuses that are not open to the public during meet and confer  
11 negotiations.

12 Sec. 11.413. RATIFICATION AND ENFORCEABILITY OF AGREEMENT.

13 (a) An agreement under this subchapter is enforceable and binding  
14 on the school district, the recognized employee association, and  
15 the employees covered by the meet and confer agreement only if:

16 (1) the board of trustees of the district ratified the  
17 agreement by a majority vote; and

18 (2) the recognized employee association ratified the  
19 agreement by conducting a secret ballot election at which the  
20 majority of the covered employees who are members of the  
21 association favored ratifying the agreement.

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

27 (c) A state district court of a judicial district in which

1 the school district is located has jurisdiction to hear and resolve  
2 a dispute under the ratified meet and confer agreement on the  
3 application of a party to the agreement aggrieved by an action or  
4 omission of the other party when the action or omission is related  
5 to a right, duty, or obligation provided by the agreement. The  
6 court may issue proper restraining orders, temporary and permanent  
7 injunctions, or any other writ, order, or process, including  
8 contempt orders, that are appropriate to enforcing the agreement.

9 Sec. 11.414. ACTION TO REPEAL AUTHORIZATION TO OPERATE  
10 UNDER THIS SUBCHAPTER. The board of trustees of a school district  
11 that granted recognition of an employee association under Section  
12 11.404 may withdraw recognition of the association by providing to  
13 the association not less than 90 days' written notice that:

14 (1) the board is withdrawing recognition of the  
15 association; and

16 (2) any agreement between the board and the  
17 association will not be renewed.

18 Sec. 11.415. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.  
19 A written meet and confer agreement ratified under this subchapter  
20 preempts, during the term of the agreement and to the extent of any  
21 conflict, all contrary state statutes, executive orders, or rules  
22 adopted by this state, a school district board of trustees, or an  
23 agent of this state, other than a statute, executive order, or rule  
24 regarding pensions or pension-related matters.

25 SECTION 2. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this  
2 Act takes effect September 1, 2009.