

1-1 By: Watson, Hinojosa S.B. No. 764
1-2 (In the Senate - Filed February 10, 2009; March 4, 2009, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; March 19, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; March 19, 2009, sent to printer.)

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

1-8 relating to the right of certain municipalities to maintain local
1-9 control over wages, hours, and other terms and conditions of
1-10 employment.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 146, Local Government Code, is amended
1-13 by designating Sections 146.001, 146.002, 146.003, 146.004,
1-14 146.005, 146.006, 146.007, 146.008, 146.009, 146.010, 146.011,
1-15 146.012, 146.013, 146.014, 146.015, 146.016, and 146.017 as
1-16 Subchapter A and adding a subchapter heading to read as follows:

1-17 SUBCHAPTER A. MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE

1-18 SECTION 2. Sections 146.001 through 146.004, Local
1-19 Government Code, are amended to read as follows:

1-20 Sec. 146.001. APPLICABILITY. (a) This subchapter
1-21 [~~chapter~~] applies only to a municipality with a population of 1.5
1-22 million or more.

1-23 (b) This subchapter [~~chapter~~] does not apply to:

1-24 (1) firefighters or police officers who are covered by
1-25 Subchapter H, I, or J of Chapter 143 or by Chapter 174; or

1-26 (2) an employee association in which those employees
1-27 participate.

1-28 Sec. 146.002. DEFINITIONS. In this subchapter [~~chapter~~]:

1-29 (1) "Covered employee" means an employee of a
1-30 municipality, other than a department head or a firefighter or
1-31 police officer who is covered by Subchapter H, I, or J of Chapter
1-32 143 or by Chapter 174.

1-33 (2) "Employee association" means an organization in
1-34 which municipal employees participate and that exists for the
1-35 purpose, wholly or partly, of dealing with one or more employers,
1-36 whether public or private, concerning grievances, labor disputes,
1-37 wages, rates of pay, hours of employment, or conditions of work
1-38 affecting public employees and whose members pay dues by means of an
1-39 automatic payroll deduction.

1-40 (3) "Public employer" means any municipality or
1-41 agency, board, commission, or political subdivision controlled by a
1-42 municipality that is required to establish the wages, salaries,
1-43 rates of pay, hours, working conditions, and other terms and
1-44 conditions of employment of public employees. The term may
1-45 include, under appropriate circumstances, a mayor, manager,
1-46 administrator of a municipality, municipal governing body,
1-47 director of personnel, personnel board, or one or more other
1-48 officials regardless of the name by which they are designated.

1-49 Sec. 146.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
1-50 RECOGNITION. (a) A municipality may not be denied local control
1-51 over the wages, salaries, rates of pay, hours of work, other terms
1-52 and conditions of employment, or other state-mandated personnel
1-53 issues. A public employer may enter into a mutual agreement
1-54 governing these issues with an employee association recognized
1-55 under this subchapter [~~chapter~~] as the sole and exclusive
1-56 bargaining agent for all covered employees that does not advocate
1-57 the illegal right to strike by municipal employees. The applicable
1-58 statutes, local ordinances, and civil service rules govern a term
1-59 or condition of employment on which the public employer and the
1-60 association do not agree.

1-61 (b) An agreement under this subchapter [~~chapter~~] must be
1-62 written.

1-63 (c) This subchapter [~~chapter~~] does not require the public
1-64 employer and the recognized employee association to meet and confer

2-1 or reach an agreement on any issue.

2-2 (d) This subchapter [~~chapter~~] does not authorize an
 2-3 agreement regarding pension or pension-related matters governed by
 2-4 Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular
 2-5 Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes)
 2-6 [~~Chapter 358, Acts of the 48th Legislature, Regular Session, 1943~~
 2-7 (~~Article 6243g, Vernon's Texas Civil Statutes~~)], or a successor
 2-8 statute.

2-9 Sec. 146.004. PETITION FOR RECOGNITION: ELECTION OR ACTION
 2-10 BY GOVERNING BODY. (a) Not later than the 30th day after the date
 2-11 the governing body of a municipality receives from an employee
 2-12 association a petition signed by the majority of all covered
 2-13 employees that requests recognition of the association as the sole
 2-14 and exclusive bargaining agent for all the covered employees, the
 2-15 governing body shall:

2-16 (1) grant recognition of the association as requested
 2-17 in the petition and find that a public employer may meet and confer
 2-18 under this subchapter [~~chapter~~] without conducting an election by
 2-19 the voters in the municipality under Section 146.006;

2-20 (2) defer granting recognition of the association and
 2-21 order an election by the voters in the municipality under Section
 2-22 146.006 regarding whether a public employer may meet and confer
 2-23 under this subchapter [~~chapter~~]; or

2-24 (3) order a certification election under Section
 2-25 146.005 to determine whether the association represents a majority
 2-26 of the covered employees.

2-27 (b) If the governing body of a municipality orders a
 2-28 certification election under Subsection (a)(3) and the association
 2-29 named in the petition is certified to represent a majority of the
 2-30 covered employees, the governing body shall, not later than the
 2-31 30th day after the date that results of that election are certified:

2-32 (1) grant recognition of the association as requested
 2-33 in the petition for recognition and find that a public employer may
 2-34 meet and confer under this subchapter [~~chapter~~] without conducting
 2-35 an election by the voters in the municipality under Section
 2-36 146.006; or

2-37 (2) defer granting recognition of the association and
 2-38 order an election by the voters in the municipality under Section
 2-39 146.006 regarding whether a public employer may meet and confer
 2-40 under this subchapter [~~chapter~~].

2-41 SECTION 3. The heading to Section 146.006, Local Government
 2-42 Code, is amended to read as follows:

2-43 Sec. 146.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS
 2-44 SUBCHAPTER [~~CHAPTER~~].

2-45 SECTION 4. Subsections (a) and (e), Section 146.006, Local
 2-46 Government Code, are amended to read as follows:

2-47 (a) The governing body of a municipality that receives a
 2-48 petition for recognition under Section 146.004 may order an
 2-49 election to determine whether a public employer may meet and confer
 2-50 under this subchapter [~~chapter~~].

2-51 (e) If an election authorized under this section is held,
 2-52 the municipality may operate under the other provisions of this
 2-53 subchapter [~~chapter~~] only if a majority of the votes cast at the
 2-54 election favor the proposition.

2-55 SECTION 5. Subsection (a), Section 146.007, Local
 2-56 Government Code, is amended to read as follows:

2-57 (a) The municipal employees may modify or change the
 2-58 recognition of the employee association granted under this
 2-59 subchapter [~~chapter~~] by filing with the governing body of the
 2-60 municipality a petition signed by a majority of all covered
 2-61 employees.

2-62 SECTION 6. Subsection (a), Section 146.009, Local
 2-63 Government Code, is amended to read as follows:

2-64 (a) A public employer in a municipality that chooses to meet
 2-65 and confer under this subchapter [~~chapter~~] shall recognize an
 2-66 association that is recognized under Section 146.004 or 146.005 as
 2-67 the sole and exclusive bargaining agent for the covered employees.

2-68 SECTION 7. Section 146.011, Local Government Code, is
 2-69 amended to read as follows:

3-1 Sec. 146.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and
 3-2 confer agreement ratified under this subchapter [~~chapter~~] may not
 3-3 interfere with the right of a member of a bargaining unit to pursue
 3-4 allegations of discrimination based on race, creed, color, national
 3-5 origin, religion, age, sex, or disability with the Texas Workforce
 3-6 Commission civil rights division or the federal Equal Employment
 3-7 Opportunity Commission or to pursue affirmative action litigation.

3-8 SECTION 8. Subsection (a), Section 146.013, Local
 3-9 Government Code, is amended to read as follows:

3-10 (a) Deliberations relating to a meet and confer agreement or
 3-11 proposed agreement under this subchapter [~~chapter~~] between
 3-12 representatives of the public employer and representatives of the
 3-13 employee association recognized under this subchapter [~~chapter~~] as
 3-14 the sole and exclusive bargaining agent for the covered employees
 3-15 must be open to the public and comply with state law.

3-16 SECTION 9. Subsection (a), Section 146.014, Local
 3-17 Government Code, is amended to read as follows:

3-18 (a) An agreement under this subchapter [~~chapter~~] is
 3-19 enforceable and binding on the public employer, the recognized
 3-20 employee association, and the employees covered by the meet and
 3-21 confer agreement only if:

3-22 (1) the governing body of the municipality ratified
 3-23 the agreement by a majority vote; and

3-24 (2) the recognized employee association ratified the
 3-25 agreement by conducting a secret ballot election at which the
 3-26 majority of the covered employees who are members of the
 3-27 association favored ratifying the agreement.

3-28 SECTION 10. The heading to Section 146.015, Local
 3-29 Government Code, is amended to read as follows:

3-30 Sec. 146.015. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
 3-31 OPERATE UNDER THIS SUBCHAPTER [~~CHAPTER~~].

3-32 SECTION 11. Subsections (b) and (f), Section 146.015, Local
 3-33 Government Code, are amended to read as follows:

3-34 (b) The governing body of a municipality that granted
 3-35 recognition of an employee association after conducting an election
 3-36 under Section 146.006 may order an election to determine whether a
 3-37 public employer may continue to meet and confer under this
 3-38 subchapter [~~chapter~~]. The governing body may not order an election
 3-39 under this subsection until the second anniversary of the date of
 3-40 the election under Section 146.006.

3-41 (f) If an election ordered under Subsection (b) is held, the
 3-42 municipality may continue to operate under this subchapter
 3-43 [~~chapter~~] only if a majority of the votes cast at the election favor
 3-44 the proposition.

3-45 SECTION 12. Section 146.017, Local Government Code, is
 3-46 amended to read as follows:

3-47 Sec. 146.017. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
 3-48 A written meet and confer agreement ratified under this subchapter
 3-49 [~~chapter~~] preempts, during the term of the agreement and to the
 3-50 extent of any conflict, all contrary state statutes, local
 3-51 ordinances, executive orders, civil service provisions, or rules
 3-52 adopted by this state or a political subdivision or agent of this
 3-53 state, including a personnel board, civil service commission, or
 3-54 home-rule municipality, other than a statute, ordinance, executive
 3-55 order, civil service provision, or rule regarding pensions or
 3-56 pension-related matters.

3-57 SECTION 13. Chapter 146, Local Government Code, is amended
 3-58 by adding Subchapter B to read as follows:

3-59 SUBCHAPTER B. MUNICIPALITY WITH POPULATION OF 650,000 OR MORE THAT
 3-60 OPERATES UNDER CITY MANAGER FORM OF GOVERNMENT

3-61 Sec. 146.101. APPLICABILITY. (a) This subchapter applies
 3-62 only to a municipality with a population of 650,000 or more:

3-63 (1) that operates under a city manager form of
 3-64 government;

3-65 (2) in which all members of the municipality's
 3-66 governing body are elected at large; and

3-67 (3) that recognized associations under Subchapter I,
 3-68 Chapter 143, as the exclusive bargaining agents for both
 3-69 firefighters and police officers before September 1, 2005.

4-1 (b) This subchapter does not apply to:

4-2 (1) firefighters or police officers who are covered by
4-3 Subchapter I, Chapter 143;

4-4 (2) emergency medical services personnel; or

4-5 (3) an employee association in which employees
4-6 described by Subdivisions (1) and (2) participate.

4-7 (c) A municipality that was subject to this subchapter by
4-8 application of Subsection (a) and that subsequently changes its
4-9 governing body or form of government continues to be subject to this
4-10 subchapter, regardless of whether the municipality continues to
4-11 meet the requirements of Subdivisions (1) and (2) of that
4-12 subsection.

4-13 Sec. 146.102. DEFINITIONS. In this subchapter:

4-14 (1) "Appointed employee" means any municipal employee
4-15 appointed by the municipality's governing body.

4-16 (2) "Covered employee" means an employee of a
4-17 municipality, other than:

4-18 (A) an appointed employee;

4-19 (B) a city manager, an assistant city manager, or
4-20 a professional executive assistant to a city manager or assistant
4-21 city manager;

4-22 (C) an employee who holds an executive-level
4-23 position;

4-24 (D) a cadet or trainee enrolled in a training
4-25 program for police officers, firefighters, or emergency medical
4-26 services personnel;

4-27 (E) an employee designated under Section 146.110
4-28 as a bargaining agent for the municipality; and

4-29 (F) an employee designated as exempt from the
4-30 bargaining unit by the mutual agreement of the recognized employee
4-31 association and the public employer.

4-32 (3) "Emergency medical services personnel" has the
4-33 meaning assigned by Section 142.152(2).

4-34 (4) "Employee association" means an organization in
4-35 which municipal employees participate and that exists for the
4-36 purpose, wholly or partly, of dealing with one or more employers,
4-37 whether public or private, concerning grievances, labor disputes,
4-38 wages, rates of pay, hours of employment, or conditions of work
4-39 affecting public employees and whose members pay dues by means of an
4-40 automatic payroll deduction.

4-41 (5) "Public employer" means any municipality or
4-42 agency, board, commission, or political subdivision controlled by a
4-43 municipality that is required to establish the wages, salaries,
4-44 rates of pay, hours, working conditions, and other terms and
4-45 conditions of employment of public employees. The term may
4-46 include, under appropriate circumstances, a mayor, manager,
4-47 administrator of a municipality, municipal governing body,
4-48 director of personnel, personnel board, or one or more other
4-49 officials regardless of the name by which they are designated.

4-50 Sec. 146.103. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
4-51 RECOGNITION. (a) A municipality may not be denied local control
4-52 over wages, salaries, rates of pay, hours of work, other terms and
4-53 conditions of employment, or other state-mandated personnel
4-54 issues. A public employer may enter into a mutual agreement
4-55 governing these issues with an employee association recognized
4-56 under this subchapter as the sole and exclusive bargaining agent
4-57 for all covered employees that does not advocate the illegal right
4-58 to strike by municipal employees. The applicable statutes, local
4-59 ordinances, and civil service rules govern a term or condition of
4-60 employment on which the public employer and the association do not
4-61 agree.

4-62 (b) An agreement under this subchapter must be written.

4-63 (c) This subchapter does not require the public employer and
4-64 the recognized employee association to meet and confer or reach an
4-65 agreement on any issue.

4-66 (d) This subchapter does not authorize an agreement
4-67 regarding pension or pension-related matters governed by statute.

4-68 Sec. 146.104. PETITION FOR RECOGNITION: ELECTION OR ACTION
4-69 BY GOVERNING BODY. (a) Not later than the 30th day after the date

5-1 the governing body of a municipality receives from an employee
 5-2 association a petition signed by the majority of all covered
 5-3 employees that requests recognition of the association as the sole
 5-4 and exclusive bargaining agent for all the covered employees, the
 5-5 governing body shall:

5-6 (1) grant recognition of the association as requested
 5-7 in the petition and find that a public employer may meet and confer
 5-8 under this subchapter without conducting an election by the voters
 5-9 in the municipality under Section 146.106;

5-10 (2) defer granting recognition of the association and
 5-11 order an election by the voters in the municipality under Section
 5-12 146.106 regarding whether a public employer may meet and confer
 5-13 under this subchapter; or

5-14 (3) order a certification election under Section
 5-15 146.105 to determine whether the association represents a majority
 5-16 of the covered employees.

5-17 (b) If the governing body of a municipality orders a
 5-18 certification election under Subsection (a)(3) and the employee
 5-19 association named in the petition is certified to represent a
 5-20 majority of the covered employees, the governing body shall, not
 5-21 later than the 30th day after the date results of that election are
 5-22 certified:

5-23 (1) grant recognition of the association as requested
 5-24 in the petition for recognition and find that a public employer may
 5-25 meet and confer under this subchapter without conducting an
 5-26 election by the voters in the municipality under Section 146.106;
 5-27 or

5-28 (2) defer granting recognition of the association and
 5-29 order an election by the voters in the municipality under Section
 5-30 146.106 regarding whether a public employer may meet and confer
 5-31 under this subchapter.

5-32 Sec. 146.105. CERTIFICATION ELECTION. (a) Except as
 5-33 provided by Subsection (b), a certification election ordered under
 5-34 Section 146.104(a)(3) to determine whether an employee association
 5-35 represents a majority of the covered employees shall be conducted
 5-36 according to procedures agreeable to the parties.

5-37 (b) If the parties are unable to agree on procedures for the
 5-38 certification election, either party may request the American
 5-39 Arbitration Association to conduct the election and to certify the
 5-40 results of the election.

5-41 (c) The results of an election shall be certified if the
 5-42 employee association receives a majority of valid votes cast in the
 5-43 election.

5-44 (d) The employee association is liable for the expenses of
 5-45 the certification election, except that if two or more associations
 5-46 seeking recognition as the sole and exclusive bargaining agent
 5-47 submit a petition signed by at least 30 percent of the employees
 5-48 eligible to sign the petition for recognition, all the associations
 5-49 named in any petition shall share equally the costs of the election.

5-50 Sec. 146.106. ELECTION TO AUTHORIZE OPERATING UNDER THIS
 5-51 SUBCHAPTER. (a) The governing body of a municipality that
 5-52 receives a petition for recognition under Section 146.104 may order
 5-53 an election to determine whether a public employer may meet and
 5-54 confer under this subchapter.

5-55 (b) An election ordered under this section must be held as
 5-56 part of the next regularly scheduled general election for municipal
 5-57 officials that is held after the date the governing body of the
 5-58 municipality orders the election and that allows sufficient time to
 5-59 prepare the ballot in compliance with other requirements of law.

5-60 (c) The ballot for an election ordered under this section
 5-61 shall be printed to permit voting for or against the proposition:
 5-62 "Authorizing _____ (name of the municipality) to operate under
 5-63 the state law allowing a municipality to meet and confer and make
 5-64 agreements with the association representing municipal employees
 5-65 as provided by state law, preserving the prohibition against
 5-66 strikes and organized work stoppages, and providing penalties for
 5-67 strikes and organized work stoppages."

5-68 (d) An election called under this section must be held and
 5-69 the returns prepared and canvassed in conformity with the Election

6-1 Code.

6-2 (e) If an election authorized under this section is held,
 6-3 the municipality may operate under the other provisions of this
 6-4 subchapter only if a majority of the votes cast at the election
 6-5 favor the proposition.

6-6 (f) If an election authorized under this section is held, an
 6-7 employee association may not submit a petition for recognition to
 6-8 the governing body of the municipality under Section 146.104 before
 6-9 the second anniversary of the date of the election.

6-10 Sec. 146.107. CHANGE OR MODIFICATION OF RECOGNITION.

6-11 (a) The municipal employees may modify or change the recognition
 6-12 of the employee association granted under this subchapter by filing
 6-13 with the governing body of the municipality a petition signed by a
 6-14 majority of all covered employees.

6-15 (b) The governing body of the municipality may:

6-16 (1) recognize the change or modification as provided
 6-17 by the petition; or

6-18 (2) order a certification election in accordance with
 6-19 Section 146.105 regarding whether to do so.

6-20 Sec. 146.108. STRIKES PROHIBITED. (a) A municipal
 6-21 employee may not engage in a strike or organized work stoppage
 6-22 against this state or the municipality.

6-23 (b) A municipal employee who participates in a strike
 6-24 forfeits any civil service rights, reemployment rights, and other
 6-25 rights, benefits, or privileges the employee may have as a result of
 6-26 the employee's employment or prior employment with the
 6-27 municipality.

6-28 (c) This section does not affect the right of a person to
 6-29 cease work if the person is not acting in concert with others in an
 6-30 organized work stoppage.

6-31 Sec. 146.109. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A
 6-32 public employer in a municipality that chooses to meet and confer
 6-33 under this subchapter shall recognize an employee association that
 6-34 is recognized under Section 146.104 or 146.105 as the sole and
 6-35 exclusive bargaining agent for the covered employees.

6-36 (b) The public employer shall recognize the employee
 6-37 association until recognition of the association is withdrawn, in
 6-38 accordance with Section 146.107, by a majority of the municipal
 6-39 employees eligible to sign a petition for recognition.

6-40 Sec. 146.110. SELECTION OF BARGAINING AGENT; BARGAINING
 6-41 UNIT. (a) The public employer's chief executive officer or the
 6-42 chief executive officer's designee shall select one or more persons
 6-43 to represent the public employer as its sole and exclusive
 6-44 bargaining agent to meet and confer on issues related to the wages,
 6-45 hours of employment, and other terms and conditions of employment
 6-46 of municipal employees.

6-47 (b) An employee association may designate one or more
 6-48 persons to negotiate or bargain on the association's behalf. An
 6-49 employee association may not designate as one of its bargaining
 6-50 agents any person employed as an attorney for the public employer.

6-51 (c) A municipality's bargaining unit is composed of all the
 6-52 covered employees.

6-53 Sec. 146.111. PROTECTED RIGHTS OF EMPLOYEES. A meet and
 6-54 confer agreement ratified under this subchapter may not interfere
 6-55 with the right of a member of a bargaining unit to pursue
 6-56 allegations of discrimination based on race, creed, color, national
 6-57 origin, religion, age, sex, or disability with the Texas Workforce
 6-58 Commission civil rights division or the federal Equal Employment
 6-59 Opportunity Commission or to pursue affirmative action litigation.

6-60 Sec. 146.112. OPEN RECORDS. (a) A proposed meet and
 6-61 confer agreement and a document prepared and used by the
 6-62 municipality, including a public employer, in connection with the
 6-63 proposed agreement are available to the public under Chapter 552,
 6-64 Government Code, only after the agreement is ready to be ratified by
 6-65 the governing body of the municipality.

6-66 (b) This section does not affect the application of
 6-67 Subchapter C, Chapter 552, Government Code, to a document prepared
 6-68 and used in connection with the agreement.

6-69 Sec. 146.113. OPEN DELIBERATIONS. (a) Deliberations

7-1 relating to a meet and confer agreement or proposed agreement under
 7-2 this subchapter between representatives of the public employer and
 7-3 representatives of the employee association recognized under this
 7-4 subchapter as the sole and exclusive bargaining agent for the
 7-5 covered employees must be open to the public and comply with state
 7-6 law.

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

7-12 Sec. 146.114. RATIFICATION AND ENFORCEABILITY OF
 7-13 AGREEMENT. (a) An agreement under this subchapter is enforceable
 7-14 and binding on the public employer, the recognized employee
 7-15 association, and the employees covered by the meet and confer
 7-16 agreement only if:

7-17 (1) the governing body of the municipality ratified
 7-18 the agreement by a majority vote; and

7-19 (2) the recognized employee association ratified the
 7-20 agreement by conducting a secret ballot election at which the
 7-21 majority of the covered employees who voted in the election and are
 7-22 members of the association favored ratifying the agreement.

7-23 (b) A meet and confer agreement ratified as described by
 7-24 Subsection (a) may establish a procedure by which the parties agree
 7-25 to resolve disputes related to a right, duty, or obligation
 7-26 provided by the agreement, including binding arbitration on a
 7-27 question involving interpretation of the agreement.

7-28 (c) A state district court of a judicial district in which
 7-29 the municipality is located has jurisdiction to hear and resolve a
 7-30 dispute under the ratified meet and confer agreement on the
 7-31 application of a party to the agreement aggrieved by an action or
 7-32 omission of the other party when the action or omission is related
 7-33 to a right, duty, or obligation provided by the agreement. The
 7-34 court may issue proper restraining orders, temporary and permanent
 7-35 injunctions, or any other writ, order, or process, including
 7-36 contempt orders, that are appropriate to enforcing the agreement.

7-37 Sec. 146.115. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
 7-38 OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a
 7-39 municipality that granted recognition of an employee association
 7-40 under Section 146.104 without conducting an election under Section
 7-41 146.106 may withdraw recognition of the association by providing to
 7-42 the association not less than 90 days' written notice that:

7-43 (1) the governing body is withdrawing recognition of
 7-44 the association; and

7-45 (2) any agreement between the governing body and the
 7-46 association will not be renewed.

7-47 (b) The governing body of a municipality that granted
 7-48 recognition of an employee association after conducting an election
 7-49 under Section 146.106 may order an election to determine whether a
 7-50 public employer may continue to meet and confer under this
 7-51 subchapter. The governing body may not order an election under this
 7-52 subsection until the second anniversary of the date of the election
 7-53 under Section 146.106.

7-54 (c) An election ordered under Subsection (b) must be held as
 7-55 part of the next regularly scheduled general election for municipal
 7-56 officers that occurs after the date the governing body of the
 7-57 municipality orders the election and that allows sufficient time to
 7-58 prepare the ballot in compliance with other requirements of law.

7-59 (d) The ballot for an election ordered under Subsection (b)
 7-60 shall be printed to permit voting for or against the proposition:
 7-61 "Authorizing _____ (name of the municipality) to continue to
 7-62 operate under the state law allowing a municipality to meet and
 7-63 confer and make agreements with the association representing
 7-64 municipal employees as provided by state law, preserving the
 7-65 prohibition against strikes and organized work stoppages, and
 7-66 providing penalties for strikes and organized work stoppages."

7-67 (e) An election ordered under Subsection (b) must be held
 7-68 and the returns prepared and canvassed in conformity with the
 7-69 Election Code.

8-1 (f) If an election ordered under Subsection (b) is held, the
8-2 municipality may continue to operate under this subchapter only if
8-3 a majority of the votes cast at the election favor the proposition.

8-4 (g) If an election ordered under Subsection (b) is held, an
8-5 employee association may not submit a petition for recognition to
8-6 the governing body of the municipality under Section 146.104 before
8-7 the second anniversary of the date of the election.

8-8 Sec. 146.116. ELECTION TO REPEAL AGREEMENT. (a) Not later
8-9 than the 45th day after the date a meet and confer agreement is
8-10 ratified by the governing body of the municipality and the
8-11 recognized employee association, a petition calling for the repeal
8-12 of the agreement signed by at least 10 percent of the qualified
8-13 voters residing in the municipality may be presented to the person
8-14 charged with ordering an election under Section 3.004, Election
8-15 Code.

8-16 (b) If a petition is presented under Subsection (a), the
8-17 governing body of the municipality shall:

8-18 (1) repeal the meet and confer agreement; or

8-19 (2) certify that it is not repealing the agreement and
8-20 call an election to determine whether to repeal the agreement.

8-21 (c) An election called under Subsection (b)(2) may be held
8-22 as part of the next regularly scheduled general election for the
8-23 municipality or at a special election called by the governing body
8-24 for that purpose. The ballot shall be printed to permit voting for
8-25 or against the proposition: "Repeal the meet and confer agreement
8-26 ratified on _____ (date agreement was ratified) by the _____
8-27 (name of the governing body of the municipality) and the _____ (name
8-28 of the recognized municipal employee association) concerning
8-29 wages, salaries, rates of pay, hours of work, and other terms of
8-30 employment."

8-31 (d) If a majority of the votes cast at the election favor the
8-32 repeal of the agreement, the agreement is void.

8-33 Sec. 146.117. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
8-34 A written meet and confer agreement ratified under this subchapter
8-35 preempts, during the term of the agreement and to the extent of any
8-36 conflict, all contrary state statutes, local ordinances, executive
8-37 orders, civil service provisions, or rules adopted by this state or
8-38 a political subdivision or agent of this state, including a
8-39 personnel board, civil service commission, or home-rule
8-40 municipality, other than a statute, ordinance, executive order,
8-41 civil service provision, or rule regarding pensions or
8-42 pension-related matters.

8-43 Sec. 146.118. ARBITRATION. The governing body of a
8-44 municipality may submit to interest arbitration any issues that
8-45 were the subject of negotiation between the municipality and the
8-46 employee association. An award or decision by an arbitrator is not
8-47 binding on the municipality until it is adopted by the
8-48 municipality's governing body.

8-49 SECTION 14. This Act takes effect September 1, 2009.

8-50 * * * * *