By: Hinojosa S.B. No. 1687

A BILL TO BE ENTITLED

AN ACT

relating to the right of certain counties 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. Subtitle B, Title 5, Local Government Code, is amended by adding Chapter 161 to read as follows:

CHAPTER 161. LOCAL CONTROL OF EMPLOYMENT MATTERS IN CERTAIN COUNTIES

Sec. 161.001. APPLICABILITY. (a) This chapter applies only to a county:

(1) that is located on an international border;

(2) that has a population of more than 560,000;

(3) in which more than 10 incorporated municipalities are located; and

(4) 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) This chapter does not apply to:

(1) police officers who are covered by Chapter 174; or

(2) an employee association in which employees described by Subdivision (1) participate.

Sec. 161.002. DEFINITIONS. In this chapter:

(1) "Covered employee" means an employee of a county, other than a department head or a police officer who is covered by Chapter 174.

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

(3) "Public employer" means any county or political subdivision controlled by a county that is required to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of public employees. The term may include, under appropriate circumstances, a county judge, county commissioner, commissioners court, director of personnel, personnel board, or one or more other officials regardless of the name by which they are designated.

Sec. 161.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND RECOGNITION. (a) A county may not be denied local control over wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other state-mandated personnel issues. A public employer may 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. 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) An agreement under this chapter must be written.

(c) 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) This chapter does not authorize an agreement regarding pension or pension-related matters governed by Subtitle F, Title 8, Government Code.

Sec. 161.004. PETITION FOR RECOGNITION: ELECTION OR ACTION BY COMMISSIONERS COURT. (a) 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, the commissioners court shall:

(1) grant recognition of the association as requested in the petition and find that a public employer may meet and confer under this chapter without conducting an election by the voters in the county under Section 161.006;

(2) defer granting recognition of the association and order an election by the voters in the county under Section 161.006 regarding whether a public employer may meet and confer under this chapter; or

(3) order a certification election under Section 161.005 to determine whether the association represents a majority

of the covered employees of the county.

(b) If the commissioners court of a county orders a certification election under Subsection (a)(3) and the employee association named in the petition is certified to represent a majority of the covered employees, the commissioners court shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and find that a public employer may meet and confer under this chapter without conducting an election by the voters in the county under Section 161.006; or

(2) defer granting recognition of the association and order an election by the voters in the county under Section 161.006 regarding whether a public employer may meet and confer under this chapter.

Sec. 161.005. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 161.004(a)(3) to determine whether an employee association represents a majority of the covered employees shall be conducted according to procedures agreeable to the parties.

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

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

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

(e) The employee 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 shall share equally the costs of the election.

Sec. 161.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER. (a) The commissioners court of a county that receives a petition for recognition under Section 161.004 may order an election to determine whether a public employer may meet and confer under this chapter.

(b) An election ordered under this section must 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) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing _____ (name of the county) to operate under the state law allowing a county to meet and confer and make agreements with the association representing county employees as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and

the returns prepared and canvassed in conformity with the Election Code.

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

(f) If an election authorized under this section is held, an employee association may not submit a petition for recognition to the commissioners court of the county under Section 161.004 before the second anniversary of the date of the election.

Sec. 161.007. CHANGE OR MODIFICATION OF RECOGNITION. (a) The county employees may 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) The commissioners court of the county may:

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

(2) order a certification election in accordance with Section 161.005 regarding whether to do so.

Sec. 161.008. STRIKES PROHIBITED. (a) A county employee may not engage in a strike or organized work stoppage against this state or the county.

(b) 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) 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. 161.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A public employer that chooses to meet and confer under this chapter shall recognize an employee association that is recognized under Section 161.004 or 161.005 as the sole and exclusive bargaining agent for the covered employees of that employer.

(b) The public employer shall recognize the employee association until recognition of the association is withdrawn, in accordance with Section 161.007, by a majority of the county employees eligible to sign a petition for recognition.

Sec. 161.010. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The commissioners court of a county shall 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) An employee association may designate one or more persons to negotiate or bargain on the association's behalf.

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

Sec. 161.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and confer agreement ratified under this chapter may not interfere 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. 161.012. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the county, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ready to be ratified by the commissioners court of the county.

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

Sec. 161.013. OPEN DELIBERATIONS. (a) 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 must be open to the public and comply with state law.

(b) Subsection (a) may not be 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. 161.014. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) 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:

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

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

(b) A meet and confer agreement ratified as described by Subsection (a) may 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) 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. The court may 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. 161.015. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS CHAPTER. (a) The commissioners court of a county that granted recognition of an employee association under Section 161.004 without conducting an election under Section 161.006 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the commissioners court is withdrawing recognition of the association; and

(2) any agreement between the commissioners court and

the association will not be renewed.

(b) The commissioners court of a county that granted recognition of an employee association after conducting an election under Section 161.006 may order an election to determine whether a public employer may continue to meet and confer under this chapter. The commissioners court may not order an election under this subsection until the second anniversary of the date of the election under Section 161.006.

(c) An election ordered under Subsection (b) must 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) The ballot for an election ordered under Subsection (b) shall be printed to permit voting for or against the proposition: "Authorizing _____ (name of the county) to continue to operate under the state law allowing a county to meet and confer and make agreements with the association representing county employees as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

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

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

(g) If an election ordered under Subsection (b) is held, an employee association may not submit a petition for recognition to the commissioners court of the county under Section 161.004 before the second anniversary of the date of the election.

Sec. 161.016. ELECTION TO REPEAL AGREEMENT. (a) 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, a petition calling for the repeal of the agreement signed by at least 10 percent of the qualified voters residing in the county may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the commissioners court of the county shall:

(1) repeal the meet and confer agreement; or

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

(c) An election called under Subsection (b)(2) may 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. The ballot shall be printed to permit voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the _____ (name of the commissioners court of the county) and the _____ (name of the recognized employee association) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the

repeal of the agreement, the agreement is void.

Sec. 161.017. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. 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 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. This Act takes effect September 1, 2009.