

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 with a population of less than one million 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

1 which county employees participate and that exists for the purpose,
2 wholly or partly, of dealing with one or more employers, whether
3 public or private, concerning grievances, labor disputes, wages,
4 rates of pay, hours of employment, or conditions of work affecting
5 public employees and whose members pay dues by means of an automatic
6 payroll deduction.

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

15 Sec. 161.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
16 RECOGNITION. (a) A county may not be denied local control over
17 wages, salaries, rates of pay, hours of work, other terms and
18 conditions of employment, or other state-mandated personnel
19 issues. A public employer may enter into a mutual agreement
20 governing these issues with an employee association recognized
21 under this chapter as the sole and exclusive bargaining agent for
22 all covered employees that does not advocate the illegal right to
23 strike by county employees. The applicable statutes, local orders
24 or ordinances, and civil service rules govern a term or condition of
25 employment on which the public employer and the association do not
26 agree.

27 (b) An agreement under this chapter must be written.

1 (c) This chapter does not require the public employer and
2 the recognized employee association to meet and confer or reach an
3 agreement on any issue.

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

7 Sec. 161.004. PETITION FOR RECOGNITION: ELECTION OR ACTION
8 BY COMMISSIONERS COURT. (a) Not later than the 30th day after the
9 date the commissioners court of a county receives from an employee
10 association a petition signed by the majority of all covered
11 employees of the county that requests recognition of the
12 association as the sole and exclusive bargaining agent for all the
13 covered employees of that employer, the commissioners court shall:

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

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

22 (3) order a certification election under Section
23 161.005 to determine whether the association represents a majority
24 of the covered employees of the county.

25 (b) If the commissioners court of a county orders a
26 certification election under Subsection (a)(3) and the association
27 named in the petition is certified to represent a majority of the

1 covered employees, the commissioners court shall, not later than
2 the 30th day after the date that results of that election are
3 certified:

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

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

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

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

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

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

26 (e) The association is liable for the expenses of the
27 certification election, except that if two or more associations

1 seeking recognition as the sole and exclusive bargaining agent
2 submit a petition signed by at least 30 percent of the employees
3 eligible to sign the petition for recognition, all the associations
4 named in any petition shall share equally the costs of the election.

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

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

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

23 (d) An election called under this section must be held and
24 the returns prepared and canvassed in conformity with the Election
25 Code.

26 (e) If an election authorized under this section is held,
27 the county may operate under the other provisions of this chapter

1 only if a majority of the votes cast at the election favor the
2 proposition.

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

7 Sec. 161.007. CHANGE OR MODIFICATION OF RECOGNITION. (a)
8 The county employees may modify or change the recognition of the
9 employee association granted under this chapter by filing with the
10 commissioners court of the county a petition signed by a majority of
11 all covered employees.

12 (b) The commissioners court of the county may:

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

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

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

20 (b) A county employee who participates in a strike forfeits
21 any civil service rights, reemployment rights, and other rights,
22 benefits, or privileges the employee may have as a result of the
23 employee's employment or prior employment with the county.

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

27 Sec. 161.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A

1 public employer that chooses to meet and confer under this chapter
2 shall recognize an association that is recognized under Section
3 161.004 or 161.005 as the sole and exclusive bargaining agent for
4 the covered employees of that employer.

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

9 Sec. 161.010. SELECTION OF BARGAINING AGENT; BARGAINING
10 UNIT. (a) The commissioners court of a county shall select one or
11 more persons to represent the public employer as its sole and
12 exclusive bargaining agent to meet and confer on issues related to
13 the wages, hours of employment, and other terms and conditions of
14 employment of county employees.

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

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

19 Sec. 161.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and
20 confer agreement ratified under this chapter may not interfere with
21 the right of a member of a bargaining unit to pursue allegations of
22 discrimination based on race, creed, color, national origin,
23 religion, age, sex, or disability with the Texas Workforce
24 Commission civil rights division or the federal Equal Employment
25 Opportunity Commission or to pursue affirmative action litigation.

26 Sec. 161.012. OPEN RECORDS. (a) A proposed meet and confer
27 agreement and a document prepared and used by the county, including

1 a public employer, in connection with the proposed agreement are
2 available to the public under Chapter 552, Government Code, only
3 after the agreement is ready to be ratified by the commissioners
4 court of the county.

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

8 Sec. 161.013. OPEN DELIBERATIONS. (a) Deliberations
9 relating to a meet and confer agreement or proposed agreement under
10 this chapter between representatives of the county and
11 representatives of the employee association recognized under this
12 chapter as the sole and exclusive bargaining agent for the covered
13 employees must be open to the public and comply with state law.

14 (b) Subsection (a) may not be construed to prohibit the
15 representatives of the county or the representatives of the
16 recognized employee association from conducting private caucuses
17 that are not open to the public during meet and confer negotiations.

18 Sec. 161.014. RATIFICATION AND ENFORCEABILITY OF
19 AGREEMENT. (a) An agreement under this chapter is enforceable and
20 binding on the county, the recognized employee association, and the
21 employees covered by the meet and confer agreement only if:

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

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

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

6 (c) A state district court of a judicial district in which
7 the county is located has jurisdiction to hear and resolve a dispute
8 under the ratified meet and confer agreement on the application of a
9 party to the agreement aggrieved by an action or omission of the
10 other party when the action or omission is related to a right, duty,
11 or obligation provided by the agreement. The court may issue proper
12 restraining orders, temporary and permanent injunctions, or any
13 other writ, order, or process, including contempt orders, that are
14 appropriate to enforcing the agreement.

15 Sec. 161.015. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
16 OPERATE UNDER THIS CHAPTER. (a) The commissioners court of a
17 county that granted recognition of an employee association under
18 Section 161.004 without conducting an election under Section
19 161.006 may withdraw recognition of the association by providing to
20 the association not less than 90 days' written notice that:

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

23 (2) any agreement between the commissioners court and
24 the association will not be renewed.

25 (b) The commissioners court of a county that granted
26 recognition of an employee association after conducting an election
27 under Section 161.006 may order an election to determine whether a

1 public employer may continue to meet and confer under this chapter.
2 The commissioners court may not order an election under this
3 subsection until the second anniversary of the date of the election
4 under Section 161.006.

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

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

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

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

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

1 Sec. 161.016. ELECTION TO REPEAL AGREEMENT. (a) Not later
2 than the 45th day after the date a meet and confer agreement is
3 ratified by the commissioners court of the county and the
4 recognized employee association, a petition calling for the repeal
5 of the agreement signed by at least 10 percent of the qualified
6 voters residing in the county may be presented to the person charged
7 with ordering an election under Section 3.004, Election Code.

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

10 (1) repeal the meet and confer agreement; or

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

13 (c) An election called under Subsection (b)(2) may be held
14 as part of the next regularly scheduled general election for the
15 county or at a special election called by the commissioners court
16 for that purpose. The ballot shall be printed to permit voting for
17 or against the proposition: "Repeal the meet and confer agreement
18 ratified on _____ (date agreement was ratified) by the _____
19 (name of the commissioners court of the county) and the _____ (name
20 of the recognized employee association) concerning wages,
21 salaries, rates of pay, hours of work, and other terms of
22 employment."

23 (d) If a majority of the votes cast at the election favor the
24 repeal of the agreement, the agreement is void.

25 Sec. 161.017. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
26 A written meet and confer agreement ratified under this chapter
27 preempts, during the term of the agreement and to the extent of any

1 conflict, all contrary state statutes, local orders or ordinances,
2 executive orders, civil service provisions, or rules adopted by
3 this state or a political subdivision or agent of this state,
4 including a civil service commission or county, other than a
5 statute, order, ordinance, executive order, civil service
6 provision, or rule regarding pensions or pension-related matters.

7 SECTION 2. This Act takes effect September 1, 2009.