

1-1 By: Hinojosa S.B. No. 1687
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 20, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 3, Nays 2;
1-6 April 20, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1687 By: Gallegos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the right of certain counties to maintain local control
1-11 over wages, hours, and other terms and conditions of employment.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle B, Title 5, Local Government Code, is
1-14 amended by adding Chapter 161 to read as follows:

1-15 CHAPTER 161. LOCAL CONTROL OF EMPLOYMENT MATTERS IN CERTAIN
1-16 COUNTIES

1-17 Sec. 161.001. APPLICABILITY. (a) This chapter applies
1-18 only to a county:

1-19 (1) that is located on an international border;

1-20 (2) that has a population of more than 560,000;

1-21 (3) in which more than 10 incorporated municipalities
1-22 are located; and

1-23 (4) that has adopted a resolution or policy providing
1-24 for a consultation system in which the county will meet or consult
1-25 with an employee association representing employees if the
1-26 association demonstrates that the association is supported by at
1-27 least 30 percent of the employees eligible to participate.

1-28 (b) This chapter does not apply to:

1-29 (1) police officers who are covered by Chapter 174; or

1-30 (2) an employee association in which employees
1-31 described by Subdivision (1) participate.

1-32 Sec. 161.002. DEFINITIONS. In this chapter:

1-33 (1) "Covered employee" means an employee of a county,
1-34 other than a department head or a police officer who is covered by
1-35 Chapter 174.

1-36 (2) "Employee association" means an organization in
1-37 which county employees participate and that exists for the purpose,
1-38 wholly or partly, of dealing with one or more employers, whether
1-39 public or private, concerning grievances, labor disputes, wages,
1-40 rates of pay, hours of employment, or conditions of work affecting
1-41 public employees and whose members pay dues by means of an automatic
1-42 payroll deduction.

1-43 (3) "Public employer" means any county or political
1-44 subdivision controlled by a county that is required to establish
1-45 the wages, salaries, rates of pay, hours, working conditions, and
1-46 other terms and conditions of employment of public employees. The
1-47 term may include, under appropriate circumstances, a county judge,
1-48 county commissioner, commissioners court, director of personnel,
1-49 personnel board, or one or more other officials regardless of the
1-50 name by which they are designated.

1-51 Sec. 161.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
1-52 RECOGNITION. (a) A county may not be denied local control over
1-53 wages, salaries, rates of pay, hours of work, other terms and
1-54 conditions of employment, or other state-mandated personnel
1-55 issues. A public employer may enter into a mutual agreement
1-56 governing these issues with an employee association recognized
1-57 under this chapter as the sole and exclusive bargaining agent for
1-58 all covered employees that does not advocate the illegal right to
1-59 strike by county employees. The applicable statutes, local orders
1-60 or ordinances, and civil service rules govern a term or condition of
1-61 employment on which the public employer and the association do not
1-62 agree.

1-63 (b) An agreement under this chapter must be written.

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

2-4 (d) This chapter does not authorize an agreement regarding
 2-5 pension or pension-related matters governed by Subtitle F, Title 8,
 2-6 Government Code.

2-7 Sec. 161.004. PETITION FOR RECOGNITION: ELECTION OR ACTION
 2-8 BY COMMISSIONERS COURT. (a) Not later than the 30th day after the
 2-9 date the commissioners court of a county receives from an employee
 2-10 association a petition signed by the majority of all covered
 2-11 employees of the county that requests recognition of the
 2-12 association as the sole and exclusive bargaining agent for all the
 2-13 covered employees of that employer, the commissioners court shall:

2-14 (1) grant recognition of the association as requested
 2-15 in the petition and find that a public employer may meet and confer
 2-16 under this chapter without conducting an election by the voters in
 2-17 the county under Section 161.006;

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

2-22 (3) order a certification election under Section
 2-23 161.005 to determine whether the association represents a majority
 2-24 of the covered employees of the county.

2-25 (b) If the commissioners court of a county orders a
 2-26 certification election under Subsection (a)(3) and the employee
 2-27 association named in the petition is certified to represent a
 2-28 majority of the covered employees, the commissioners court shall,
 2-29 not later than the 30th day after the date that results of that
 2-30 election are certified:

2-31 (1) grant recognition of the association as requested
 2-32 in the petition for recognition and find that a public employer may
 2-33 meet and confer under this chapter without conducting an election
 2-34 by the voters in the county under Section 161.006; or

2-35 (2) defer granting recognition of the association and
 2-36 order an election by the voters in the county under Section 161.006
 2-37 regarding whether a public employer may meet and confer under this
 2-38 chapter.

2-39 Sec. 161.005. CERTIFICATION ELECTION. (a) Except as
 2-40 provided by Subsection (b), a certification election ordered under
 2-41 Section 161.004(a)(3) to determine whether an employee association
 2-42 represents a majority of the covered employees shall be conducted
 2-43 according to procedures agreeable to the parties.

2-44 (b) If the parties are unable to agree on procedures for the
 2-45 certification election, either party may request the American
 2-46 Arbitration Association to conduct the election and to certify the
 2-47 results of the election.

2-48 (c) The results of an election shall be certified if the
 2-49 employee association receives a majority of valid votes cast in the
 2-50 election.

2-51 (d) Certification of the results of an election under this
 2-52 section resolves the question concerning representation.

2-53 (e) The employee association is liable for the expenses of
 2-54 the certification election, except that if two or more associations
 2-55 seeking recognition as the sole and exclusive bargaining agent
 2-56 submit a petition signed by at least 30 percent of the employees
 2-57 eligible to sign the petition for recognition, all the associations
 2-58 named in any petition shall share equally the costs of the election.

2-59 Sec. 161.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS
 2-60 CHAPTER. (a) The commissioners court of a county that receives a
 2-61 petition for recognition under Section 161.004 may order an
 2-62 election to determine whether a public employer may meet and confer
 2-63 under this chapter.

2-64 (b) An election ordered under this section must be held as
 2-65 part of the next regularly scheduled general election for county
 2-66 officials that is held after the date the commissioners court of the
 2-67 county orders the election and that allows sufficient time to
 2-68 prepare the ballot in compliance with other requirements of law.

2-69 (c) The ballot for an election ordered under this section

3-1 shall be printed to permit voting for or against the proposition:
3-2 "Authorizing _____ (name of the county) to operate under the
3-3 state law allowing a county to meet and confer and make agreements
3-4 with the association representing county employees as provided by
3-5 state law, preserving the prohibition against strikes and organized
3-6 work stoppages, and providing penalties for strikes and organized
3-7 work stoppages."

3-8 (d) An election called under this section must be held and
3-9 the returns prepared and canvassed in conformity with the Election
3-10 Code.

3-11 (e) If an election authorized under this section is held,
3-12 the county may operate under the other provisions of this chapter
3-13 only if a majority of the votes cast at the election favor the
3-14 proposition.

3-15 (f) If an election authorized under this section is held, an
3-16 employee association may not submit a petition for recognition to
3-17 the commissioners court of the county under Section 161.004 before
3-18 the second anniversary of the date of the election.

3-19 Sec. 161.007. CHANGE OR MODIFICATION OF RECOGNITION.

3-20 (a) The county employees may modify or change the recognition of
3-21 the employee association granted under this chapter by filing with
3-22 the commissioners court of the county a petition signed by a
3-23 majority of all covered employees.

3-24 (b) The commissioners court of the county may:

3-25 (1) recognize the change or modification as provided
3-26 by the petition; or

3-27 (2) order a certification election in accordance with
3-28 Section 161.005 regarding whether to do so.

3-29 Sec. 161.008. STRIKES PROHIBITED. (a) A county employee
3-30 may not engage in a strike or organized work stoppage against this
3-31 state or the county.

3-32 (b) A county employee who participates in a strike forfeits
3-33 any civil service rights, reemployment rights, and other rights,
3-34 benefits, or privileges the employee may have as a result of the
3-35 employee's employment or prior employment with the county.

3-36 (c) This section does not affect the right of a person to
3-37 cease work if the person is not acting in concert with others in an
3-38 organized work stoppage.

3-39 Sec. 161.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A
3-40 public employer that chooses to meet and confer under this chapter
3-41 shall recognize an employee association that is recognized under
3-42 Section 161.004 or 161.005 as the sole and exclusive bargaining
3-43 agent for the covered employees of that employer.

3-44 (b) The public employer shall recognize the employee
3-45 association until recognition of the association is withdrawn, in
3-46 accordance with Section 161.007, by a majority of the county
3-47 employees eligible to sign a petition for recognition.

3-48 Sec. 161.010. SELECTION OF BARGAINING AGENT; BARGAINING
3-49 UNIT. (a) The commissioners court of a county shall select one or
3-50 more persons to represent the public employer as its sole and
3-51 exclusive bargaining agent to meet and confer on issues related to
3-52 the wages, hours of employment, and other terms and conditions of
3-53 employment of county employees.

3-54 (b) An employee association may designate one or more
3-55 persons to negotiate or bargain on the association's behalf.

3-56 (c) A county's bargaining unit is composed of all the
3-57 covered employees of the county.

3-58 Sec. 161.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and
3-59 confer agreement ratified under this chapter may not interfere with
3-60 the right of a member of a bargaining unit to pursue allegations of
3-61 discrimination based on race, creed, color, national origin,
3-62 religion, age, sex, or disability with the Texas Workforce
3-63 Commission civil rights division or the federal Equal Employment
3-64 Opportunity Commission or to pursue affirmative action litigation.

3-65 Sec. 161.012. OPEN RECORDS. (a) A proposed meet and
3-66 confer agreement and a document prepared and used by the county,
3-67 including a public employer, in connection with the proposed
3-68 agreement are available to the public under Chapter 552, Government
3-69 Code, only after the agreement is ready to be ratified by the

4-1 commissioners court of the county.
4-2 (b) This section does not affect the application of
4-3 Subchapter C, Chapter 552, Government Code, to a document prepared
4-4 and used in connection with the agreement.
4-5 Sec. 161.013. OPEN DELIBERATIONS. (a) Deliberations
4-6 relating to a meet and confer agreement or proposed agreement under
4-7 this chapter between representatives of the county and
4-8 representatives of the employee association recognized under this
4-9 chapter as the sole and exclusive bargaining agent for the covered
4-10 employees must be open to the public and comply with state law.
4-11 (b) Subsection (a) may not be construed to prohibit the
4-12 representatives of the county or the representatives of the
4-13 recognized employee association from conducting private caucuses
4-14 that are not open to the public during meet and confer negotiations.
4-15 Sec. 161.014. RATIFICATION AND ENFORCEABILITY OF
4-16 AGREEMENT. (a) An agreement under this chapter is enforceable and
4-17 binding on the county, the recognized employee association, and the
4-18 employees covered by the meet and confer agreement only if:
4-19 (1) the commissioners court of the county ratified the
4-20 agreement by a majority vote; and
4-21 (2) the recognized employee association ratified the
4-22 agreement by conducting a secret ballot election at which the
4-23 majority of the covered employees who are members of the
4-24 association favored ratifying the agreement.
4-25 (b) A meet and confer agreement ratified as described by
4-26 Subsection (a) may establish a procedure by which the parties agree
4-27 to resolve disputes related to a right, duty, or obligation
4-28 provided by the agreement, including binding arbitration on a
4-29 question involving interpretation of the agreement.
4-30 (c) A state district court of a judicial district in which
4-31 the county is located has jurisdiction to hear and resolve a dispute
4-32 under the ratified meet and confer agreement on the application of a
4-33 party to the agreement aggrieved by an action or omission of the
4-34 other party when the action or omission is related to a right, duty,
4-35 or obligation provided by the agreement. The court may issue proper
4-36 restraining orders, temporary and permanent injunctions, or any
4-37 other writ, order, or process, including contempt orders, that are
4-38 appropriate to enforcing the agreement.
4-39 Sec. 161.015. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
4-40 OPERATE UNDER THIS CHAPTER. (a) The commissioners court of a
4-41 county that granted recognition of an employee association under
4-42 Section 161.004 without conducting an election under Section
4-43 161.006 may withdraw recognition of the association by providing to
4-44 the association not less than 90 days' written notice that:
4-45 (1) the commissioners court is withdrawing
4-46 recognition of the association; and
4-47 (2) any agreement between the commissioners court and
4-48 the association will not be renewed.
4-49 (b) The commissioners court of a county that granted
4-50 recognition of an employee association after conducting an election
4-51 under Section 161.006 may order an election to determine whether a
4-52 public employer may continue to meet and confer under this chapter.
4-53 The commissioners court may not order an election under this
4-54 subsection until the second anniversary of the date of the election
4-55 under Section 161.006.
4-56 (c) An election ordered under Subsection (b) must be held as
4-57 part of the next regularly scheduled general election for county
4-58 officers that occurs after the date the commissioners court of the
4-59 county orders the election and that allows sufficient time to
4-60 prepare the ballot in compliance with other requirements of law.
4-61 (d) The ballot for an election ordered under Subsection (b)
4-62 shall be printed to permit voting for or against the proposition:
4-63 "Authorizing _____ (name of the county) to continue to operate
4-64 under the state law allowing a county to meet and confer and make
4-65 agreements with the association representing county employees as
4-66 provided by state law, preserving the prohibition against strikes
4-67 and organized work stoppages, and providing penalties for strikes
4-68 and organized work stoppages."
4-69 (e) An election ordered under Subsection (b) must be held

5-1 and the returns prepared and canvassed in conformity with the
5-2 Election Code.

5-3 (f) If an election ordered under Subsection (b) is held, the
5-4 county may continue to operate under this chapter only if a majority
5-5 of the votes cast at the election favor the proposition.

5-6 (g) If an election ordered under Subsection (b) is held, an
5-7 employee association may not submit a petition for recognition to
5-8 the commissioners court of the county under Section 161.004 before
5-9 the second anniversary of the date of the election.

5-10 Sec. 161.016. ELECTION TO REPEAL AGREEMENT. (a) Not later
5-11 than the 45th day after the date a meet and confer agreement is
5-12 ratified by the commissioners court of the county and the
5-13 recognized employee association, a petition calling for the repeal
5-14 of the agreement signed by at least 10 percent of the qualified
5-15 voters residing in the county may be presented to the person charged
5-16 with ordering an election under Section 3.004, Election Code.

5-17 (b) If a petition is presented under Subsection (a), the
5-18 commissioners court of the county shall:

5-19 (1) repeal the meet and confer agreement; or

5-20 (2) certify that it is not repealing the agreement and
5-21 call an election to determine whether to repeal the agreement.

5-22 (c) An election called under Subsection (b)(2) may be held
5-23 as part of the next regularly scheduled general election for the
5-24 county or at a special election called by the commissioners court
5-25 for that purpose. The ballot shall be printed to permit voting for
5-26 or against the proposition: "Repeal the meet and confer agreement
5-27 ratified on _____ (date agreement was ratified) by the _____
5-28 (name of the commissioners court of the county) and the _____ (name
5-29 of the recognized employee association) concerning wages,
5-30 salaries, rates of pay, hours of work, and other terms of
5-31 employment."

5-32 (d) If a majority of the votes cast at the election favor the
5-33 repeal of the agreement, the agreement is void.

5-34 Sec. 161.017. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
5-35 A written meet and confer agreement ratified under this chapter
5-36 preempts, during the term of the agreement and to the extent of any
5-37 conflict, all contrary state statutes, local orders or ordinances,
5-38 executive orders, civil service provisions, or rules adopted by
5-39 this state or a political subdivision or agent of this state,
5-40 including a civil service commission or county, other than a
5-41 statute, order, ordinance, executive order, civil service
5-42 provision, or rule regarding pensions or pension-related matters.

5-43 SECTION 2. This Act takes effect September 1, 2009.

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