

By: Whitmire

S.B. No. 1744

A BILL TO BE ENTITLED

AN ACT

relating to conditions of employment for law enforcement officers
and corrections officers employed by certain counties.

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 SHERIFF'S DEPARTMENT EMPLOYMENT

MATTERS IN CERTAIN COUNTIES

Sec. 161.001. APPLICABILITY. This chapter applies only to
a county with a population of 3.3 million or more that:

(1) employs law enforcement officers or corrections
officers covered by Subchapter B, Chapter 158; and

(2) contains a municipality with a population of more
than 600,000 that has adopted Chapter 174 for its fire department,
police department, or both.

Sec. 161.002. DEFINITIONS. In this chapter:

(1) "Association" means an employee organization in
which law enforcement officers or corrections officers employed by
a sheriff's department, or both, participate and that exists for
the purpose, wholly or partly, of dealing with the county or the
sheriff concerning grievances, labor disputes, wages, rates of pay,
hours of work, or conditions of work affecting law enforcement
officers or corrections officers, or both, as applicable.

(2) "Corrections officer" means a person employed by a

1 sheriff's department whose primary duties include the direct
2 supervision of inmates in a county jail or another detention
3 facility maintained by a sheriff's department. The term is not
4 limited to a person who is a peace officer under Article 2.12, Code
5 of Criminal Procedure.

6 (3) "Law enforcement officer" means a person who is
7 employed by a sheriff's department as a peace officer under Article
8 2.12, Code of Criminal Procedure, and whose primary duties include
9 the enforcement of the law, investigation of crime, and service of
10 criminal warrants or civil process.

11 (4) "Public employer" means the commissioners court of
12 the county that is required to establish the wages, salaries, rates
13 of pay, hours of work, working conditions, and other terms and
14 conditions of employment of law enforcement officers or corrections
15 officers employed by the sheriff's department.

16 Sec. 161.003. PETITION FOR RECOGNITION: ELECTION OR ACTION
17 BY COUNTY COMMISSIONERS. (a) Not later than the 30th day after the
18 date the commissioners court of a county receives a petition signed
19 by the majority of all law enforcement officers and corrections
20 officers, excluding the employees exempt under Section 161.006(b),
21 requesting recognition of an association or associations as the
22 exclusive bargaining agent for the nonexempt law enforcement
23 officers or corrections officers as described by Subsection (b),
24 the commissioners court shall:

25 (1) grant recognition of the association or
26 associations as requested in the petition and find that the public
27 employers may meet and confer under this chapter without conducting

1 an election by the voters in the county under Section 161.004; or
2 (2) defer granting recognition of the association or
3 associations and order an election by the voters in the county under
4 Section 161.004 regarding whether the public employers may meet and
5 confer under this chapter.

6 (b) The petition described by Subsection (a) must state
7 whether the petitioners request recognition of:

8 (1) one association to represent all law enforcement
9 officers and corrections officers employed by the sheriff's
10 department, excluding the officers exempt under Section
11 161.006(b); or

12 (2) two associations, with:

13 (A) one association to exclusively represent law
14 enforcement officers employed by a sheriff's department, excluding
15 the officers exempt under Section 161.006(b); and

16 (B) one association to exclusively represent
17 corrections officers employed by a sheriff's department, excluding
18 the officers exempt under Section 161.006(b).

19 (c) The commissioners court may not consider a petition for
20 recognition of two associations as requested under Subsection
21 (b)(2) unless:

22 (1) the total number of law enforcement officers
23 employed by the sheriff's department constitutes 10 percent or more
24 of the total number of law enforcement officers and corrections
25 officers employed by the sheriff's department;

26 (2) the total number of corrections officers employed
27 by the sheriff's department constitutes 10 percent or more of the

total number of law enforcement officers and corrections officers employed by the sheriff's department;

(3) the petitioners request recognition of:

(A) one association to exclusively represent all law enforcement officers; and

(B) one association to exclusively represent all corrections officers; and

(4) the commissioners court considers each petition described by Subdivision (3) at the same time, and both petitions are granted or denied at that time.

Sec. 161.004. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER. (a) The commissioners court of a county that receives a petition for recognition under Section 161.003 may order an election to determine whether the public employers may meet and confer under this chapter.

(b) An election under this section must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the date the commissioners court orders the election and that allows sufficient time to comply with other requirements of law.

(c) The ballot for an election called under this section shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the commissioners court of the county) to operate under the state law allowing the (name of the commissioners court of the county) to meet and confer and make agreements with (name of the association or associations) as the exclusive bargaining agent representing nonexempt law enforcement

1 officers and corrections officers as provided by state law,
2 preserving the prohibition against strikes and lockouts, and
3 providing penalties for strikes and lockouts."

4 (d) An election called under this section shall be held and
5 the returns prepared and canvassed in conformity with the Election
6 Code.

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

11 (f) If an election authorized under this section is held, an
12 association or associations may not submit a petition for
13 recognition to the commissioners court of the county under Section
14 161.003 before the first anniversary of the date of the election.

15 Sec. 161.005. STRIKES PROHIBITED. (a) A law enforcement
16 officer or corrections officer may not engage in a strike or
17 organized work stoppage against this state or the county.

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

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

26 Sec. 161.006. RECOGNITION OF ASSOCIATION BY PUBLIC
27 EMPLOYER. (a) Except as provided by Subsection (c), a public

1 employer in a county that chooses to meet and confer under this
2 chapter shall recognize an association that is recognized under
3 Section 161.003 as the exclusive bargaining agent for the covered
4 law enforcement officers or corrections officers, or both, under
5 this chapter. The covered officers are the officers described in
6 the applicable petition for recognition, but the covered officers
7 do not include the employees exempt under Subsection (b).

8 (b) For the purposes of Subsection (a), exempt employees are
9 the sheriff and the employees that the sheriff designates as exempt
10 in the manner prescribed by Subchapter B, Chapter 158, or that are
11 exempt by the mutual agreement of the recognized association and
12 the sheriff.

13 (c) The public employer shall recognize the association
14 until:

15 (1) if an association is recognized under Section
16 161.003(b)(1), recognition of the association is withdrawn by a
17 majority of the law enforcement officers and corrections officers;
18 or

19 (2) if an association is recognized under Section
20 161.003(b)(2):

21 (A) recognition of the association is withdrawn
22 by a majority of the law enforcement officers or corrections
23 officers, as applicable; or

24 (B) the total number of law enforcement officers
25 employed by the sheriff's department or the total number of
26 corrections officers employed by the sheriff's department
27 decreases to an amount that is less than 10 percent of the total

1 number of law enforcement officers and corrections officers
2 employed by the sheriff's department.

3 (d) If recognition of an association is withdrawn as
4 provided by Subsection (c)(2), the association exclusively
5 representing the law enforcement officers shall merge with the
6 association exclusively representing corrections officers.

7 Sec. 161.007. SELECTION OF BARGAINING AGENT; PUBLIC
8 EMPLOYER BARGAINING TEAM. (a) Each public employer's chief
9 executive officer or the chief executive officer's designee shall
10 select one or more persons to represent the public employer as its
11 exclusive bargaining agent to meet and confer on issues related to
12 the wages, hours of employment, and other terms and conditions of
13 employment of law enforcement officers and corrections officers for
14 whom the public employer is responsible. The sheriff may represent
15 the office of the sheriff or select one or more persons to represent
16 the sheriff as the exclusive bargaining agent to meet and confer on
17 issues related to the wages, hours of employment, and other terms
18 and conditions of employment of law enforcement officers and
19 corrections officers.

20 (b) An association recognized under this chapter may
21 designate one or more persons to negotiate or bargain on its behalf.

22 (c) The representatives of each public employer that has
23 selected one or more persons under Subsection (a) may form a
24 bargaining team. The team may negotiate provisions applicable to
25 all represented public employers. Appropriate representatives on
26 the team may negotiate provisions applicable to only one public
27 employer or to some but not all of the represented public employers.

1 (d) An association recognized under this chapter to
2 represent law enforcement officers and an association recognized
3 under this chapter to represent corrections officers may form a
4 bargaining team. The team may negotiate an agreement with any
5 public employer or the sheriff.

6 Sec. 161.008. GENERAL PROVISIONS RELATING TO AGREEMENTS.

7 (a) A county may not be denied local control over the wages,
8 salaries, rates of pay, hours of work, or other terms and conditions
9 of employment to the extent a public employer that is a party to the
10 agreement and an association recognized as an exclusive bargaining
11 agent agree as provided by this chapter, if the agreement is
12 ratified and not repealed under this chapter. Applicable statutes
13 and applicable local orders, ordinances, and civil service rules
14 apply to an issue not governed by the agreement.

15 (b) A meet and confer agreement under this chapter must be
16 written.

17 (c) This chapter does not require a public employer or a
18 recognized association to meet and confer on any issue or reach an
19 agreement.

20 (d) A public employer and a recognized association may meet
21 and confer only if the association does not advocate an illegal
22 strike.

23 Sec. 161.009. OPEN RECORDS. (a) A proposed meet and
24 confer agreement and a document prepared and used by the public
25 employer in connection with the proposed agreement are available to
26 the public under Chapter 552, Government Code, only after the
27 agreement is ratified by the commissioners court of the county.

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

4 Sec. 161.010. RATIFICATION AND ENFORCEABILITY OF
5 AGREEMENT. (a) A meet and confer agreement under this chapter is
6 enforceable and binding on the public employer, the applicable
7 recognized association, and the law enforcement officers or
8 corrections officers, or both, covered by the agreement only if:

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

11 (2) the applicable recognized association ratified
12 the agreement by conducting a secret ballot election at which only
13 the law enforcement officers or corrections officers, or both, that
14 were represented by the association were eligible to vote, and a
15 majority of the votes cast at the election favored ratifying the
16 agreement.

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

22 (c) A meet and confer agreement under this chapter is
23 enforceable and binding on the sheriff, the applicable recognized
24 association, and the law enforcement officers or corrections
25 officers, or both, covered by the agreement only if:

26 (1) the sheriff ratified the agreement by written
27 signature; and

1 (2) the applicable recognized association ratified
2 the agreement by conducting a secret ballot in the manner described
3 by Subsection (a)(2).

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

13 Sec. 161.011. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
14 A written meet and confer agreement ratified under this chapter
15 preempts, during the term of the agreement and to the extent of any
16 conflict, all contrary state statutes, executive orders, civil
17 service provisions, or rules adopted by a personnel board or a civil
18 service commission.

19 Sec. 161.012. PROTECTED RIGHTS. (a) For any disciplinary
20 appeal, a covered law enforcement officer or corrections officer
21 may be represented by a recognized association or by any person
22 chosen by the officer.

23 (b) A meet and confer agreement ratified under this chapter
24 may not interfere with the right of a covered law enforcement
25 officer or corrections officer to pursue allegations of
26 discrimination based on race, creed, color, national origin,
27 religion, age, sex, or disability with the Texas Workforce

1 Commission civil rights division or the federal Equal Employment
2 Opportunity Commission or to pursue affirmative action litigation.

3 Sec. 161.013. ELECTION TO REPEAL AGREEMENT. (a) Not later
4 than the 60th day after the date a meet and confer agreement is
5 ratified by the public employer and a recognized association, a
6 petition calling for the repeal of the agreement signed by at least
7 10 percent of the registered voters residing in the county may be
8 presented to the commissioners court.

9 (b) If a petition is presented under Subsection (a), the
10 commissioners court shall order an election by the voters in the
11 county to determine whether to repeal the meet and confer
12 agreement.

13 (c) An election ordered under Subsection (b) shall be held
14 as part of the next regularly scheduled general election for the
15 county for which there remains sufficient time to add the question
16 to the ballot. The ballot shall be printed to provide for voting
17 for or against the proposition: "Repeal the meet and confer
18 agreement ratified on _____ (date agreement was ratified) by the
19 commissioners court and _____ (name of the association)
20 concerning wages, salaries, rates of pay, hours of work, and other
21 terms of employment of certain county _____ (law enforcement
22 officers or corrections officers or law enforcement officers and
23 corrections officers, as applicable)."

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

26 (e) A public employer and a recognized association may not
27 negotiate a new meet and confer agreement before the 181st day after

1 the date a meet and confer agreement is repealed at an election
2 under this section.

3 SECTION 2. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2009.