

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. (a) Except as provided by Subsection (b), this chapter applies only to a county with a population of 3.3 million or more:

(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.

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

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

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

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

26 (1) grant recognition of the association or
27 associations as requested in the petition and find that the public

1 employers may meet and confer under this chapter without conducting
2 an election by the voters in the county under Section 161.004; or

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

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

9 (1) one association to represent all law enforcement
10 officers and corrections officers employed by the sheriff's
11 department, excluding the officers exempt under Section
12 161.006(b); or

13 (2) two associations, with:

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

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

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

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

27 (2) the total number of corrections officers employed

1 by the sheriff's department constitutes 10 percent or more of the
2 total number of law enforcement officers and corrections officers
3 employed by the sheriff's department;

4 (3) the petitioners request recognition of:

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

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

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

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

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

22 (c) The ballot for an election called under this section
23 shall be printed to allow voting for or against the proposition:
24 "Authorizing _____ (name of the commissioners court of the
25 county) to operate under the state law allowing the (name of the
26 commissioners court of the county) to meet and confer and make
27 agreements with (name of the association or associations) as the

1 exclusive bargaining agent representing nonexempt law enforcement
2 officers and corrections officers as provided by state law,
3 preserving the prohibition against strikes and lockouts, and
4 providing penalties for strikes and lockouts."

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

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

12 (f) If an election authorized under this section is held, an
13 association or associations may not submit a petition for
14 recognition to the commissioners court of the county under Section
15 161.003 before the first anniversary of the date of the election.

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

19 (b) A law enforcement officer or corrections officer who
20 participates in a strike forfeits any civil service rights,
21 reemployment rights, and other rights, benefits, or privileges the
22 officer may have as a result of the officer's employment or prior
23 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. 161.006. RECOGNITION OF ASSOCIATION BY PUBLIC

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

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

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

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

20 (2) if an association is recognized under Section
21 161.003(b)(2):

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

25 (B) the total number of law enforcement officers
26 employed by the sheriff's department or the total number of
27 corrections officers employed by the sheriff's department

1 decreases to an amount that is less than 10 percent of the total
2 number of law enforcement officers and corrections officers
3 employed by the sheriff's department.

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

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

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

23 (c) The representatives of each public employer that has
24 selected one or more persons under Subsection (a) may form a
25 bargaining team. The team may negotiate provisions applicable to
26 all represented public employers. Appropriate representatives on
27 the team may negotiate provisions applicable to only one public

1 employer or to some but not all of the represented public employers.

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

7 Sec. 161.008. GENERAL PROVISIONS RELATING TO AGREEMENTS.

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

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

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

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

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

1 agreement is ratified by the commissioners court of the county.

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

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

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

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

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

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

27 (1) the sheriff ratified the agreement by written

1 signature; and

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

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

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

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

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

1 religion, age, sex, or disability with the Texas Workforce
2 Commission civil rights division or the federal Equal Employment
3 Opportunity Commission or to pursue affirmative action litigation.

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

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

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

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

27 (e) A public employer and a recognized association may not

1 negotiate a new meet and confer agreement before the 181st day after
2 the date a meet and confer agreement is repealed at an election
3 under this section.

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