

1-1 By: Whitmire S.B. No. 1744
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 6, 2009, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; May 6, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to conditions of employment for law enforcement officers
1-9 and corrections officers employed by certain counties.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subtitle B, Title 5, Local Government Code, is
1-12 amended by adding Chapter 161 to read as follows:

1-13 CHAPTER 161. LOCAL CONTROL OF SHERIFF'S DEPARTMENT EMPLOYMENT
1-14 MATTERS IN CERTAIN COUNTIES

1-15 Sec. 161.001. APPLICABILITY. This chapter applies only to
1-16 a county with a population of 3.3 million or more that:

1-17 (1) employs law enforcement officers or corrections
1-18 officers covered by Subchapter B, Chapter 158; and

1-19 (2) contains a municipality with a population of more
1-20 than 600,000 that has adopted Chapter 174 for its fire department,
1-21 police department, or both.

1-22 Sec. 161.002. DEFINITIONS. In this chapter:

1-23 (1) "Association" means an employee organization in
1-24 which law enforcement officers or corrections officers employed by
1-25 a sheriff's department, or both, participate and that exists for
1-26 the purpose, wholly or partly, of dealing with the county or the
1-27 sheriff concerning grievances, labor disputes, wages, rates of pay,
1-28 hours of work, or conditions of work affecting law enforcement
1-29 officers or corrections officers, or both, as applicable.

1-30 (2) "Corrections officer" means a person employed by a
1-31 sheriff's department whose primary duties include the direct
1-32 supervision of inmates in a county jail or another detention
1-33 facility maintained by a sheriff's department. The term is not
1-34 limited to a person who is a peace officer under Article 2.12, Code
1-35 of Criminal Procedure.

1-36 (3) "Law enforcement officer" means a person who is
1-37 employed by a sheriff's department as a peace officer under Article
1-38 2.12, Code of Criminal Procedure, and whose primary duties include
1-39 the enforcement of the law, investigation of crime, and service of
1-40 criminal warrants or civil process.

1-41 (4) "Public employer" means the commissioners court of
1-42 the county that is required to establish the wages, salaries, rates
1-43 of pay, hours of work, working conditions, and other terms and
1-44 conditions of employment of law enforcement officers or corrections
1-45 officers employed by the sheriff's department.

1-46 Sec. 161.003. PETITION FOR RECOGNITION: ELECTION OR ACTION
1-47 BY COUNTY COMMISSIONERS. (a) Not later than the 30th day after the
1-48 date the commissioners court of a county receives a petition signed
1-49 by the majority of all law enforcement officers and corrections
1-50 officers, excluding the employees exempt under Section 161.006(b),
1-51 requesting recognition of an association or associations as the
1-52 exclusive bargaining agent for the nonexempt law enforcement
1-53 officers or corrections officers as described by Subsection (b),
1-54 the commissioners court shall:

1-55 (1) grant recognition of the association or
1-56 associations as requested in the petition and find that the public
1-57 employers may meet and confer under this chapter without conducting
1-58 an election by the voters in the county under Section 161.004; or

1-59 (2) defer granting recognition of the association or
1-60 associations and order an election by the voters in the county under
1-61 Section 161.004 regarding whether the public employers may meet and
1-62 confer under this chapter.

1-63 (b) The petition described by Subsection (a) must state
1-64 whether the petitioners request recognition of:

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

(2) two associations, with:

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

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

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

(1) the total number of law enforcement officers employed 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;

(2) the total number of corrections officers employed 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 officers and corrections officers as provided by state law, preserving the prohibition against strikes and lockouts, and providing penalties for strikes and lockouts."

(d) An election called under this section shall 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 association or associations may not submit a petition for recognition to the commissioners court of the county under Section 161.003 before the first anniversary of the date of the election.

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

(b) A law enforcement officer or corrections officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the officer may have as a result of the officer'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. 161.006. RECOGNITION OF ASSOCIATION BY PUBLIC EMPLOYER. (a) Except as provided by Subsection (c), a public employer in a county that chooses to meet and confer under this chapter shall recognize an association that is recognized under Section 161.003 as the exclusive bargaining agent for the covered law enforcement officers or corrections officers, or both, under this chapter. The covered officers are the officers described in the applicable petition for recognition, but the covered officers do not include the employees exempt under Subsection (b).

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

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

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

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

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

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

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

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

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

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

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

Sec. 161.008. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) A county may not be denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent a public employer that is a party to the agreement and an association recognized as an exclusive bargaining

agent agree as provided by this chapter, if the agreement is ratified and not repealed under this chapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the agreement.

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

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

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

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

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

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

(2) the applicable recognized association ratified the agreement by conducting a secret ballot election at which only the law enforcement officers or corrections officers, or both, that were represented by the association were eligible to vote, and a majority of the votes cast at the election 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 meet and confer agreement under this chapter is enforceable and binding on the sheriff, the applicable recognized association, and the law enforcement officers or corrections officers, or both, covered by the agreement only if:

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

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

(d) 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. 161.011. 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, executive orders, civil service provisions, or rules adopted by a personnel board or a civil service commission.

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

(b) A meet and confer agreement ratified under this chapter may not interfere with the right of a covered law enforcement officer or corrections officer 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. 161.013. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the public employer and a recognized association, a petition calling for the repeal of the agreement signed by at least 10 percent of the registered voters residing in the county may be presented to the commissioners court.

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

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

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

(e) A public employer and a recognized association may not negotiate a new meet and confer agreement before the 181st day after the date a meet and confer agreement is repealed at an election under this section.

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

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