

1-1 By: Uresti, Van de Putte S.B. No. 2447  
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; May 7, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 3, Nays 1;  
1-6 May 7, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2447 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 162 to read as follows:

1-15 CHAPTER 162. LOCAL CONTROL OF EMPLOYMENT MATTERS IN CERTAIN  
1-16 COUNTIES

1-17 Sec. 162.001. APPLICABILITY. (a) This chapter applies  
1-18 only to a county with a population of more than one million:

1-19 (1) in which more than 80 percent of the population  
1-20 lives in a single municipality; and

1-21 (2) that has adopted a resolution or policy providing  
1-22 for a consultation system in which the county will meet or consult  
1-23 with an employee association representing employees if the  
1-24 association demonstrates that the association is supported by at  
1-25 least 30 percent of the employees eligible to participate.

1-26 (b) This chapter does not apply to:

1-27 (1) police officers who are covered by Chapter 174; or

1-28 (2) an employee association in which employees  
1-29 described by Subdivision (1) participate.

1-30 Sec. 162.002. DEFINITIONS. In this chapter:

1-31 (1) "Covered employee" means an employee of a county,  
1-32 other than a department head or a police officer who is covered by  
1-33 Chapter 174.

1-34 (2) "Employee association" means an organization in  
1-35 which county employees participate and that exists for the purpose,  
1-36 wholly or partly, of dealing with one or more employers, whether  
1-37 public or private, concerning grievances, labor disputes, wages,  
1-38 rates of pay, hours of employment, or conditions of work affecting  
1-39 public employees and whose members pay dues by means of an automatic  
1-40 payroll deduction.

1-41 (3) "Public employer" means any county required to  
1-42 establish the wages, salaries, rates of pay, hours, working  
1-43 conditions, and other terms and conditions of employment of public  
1-44 employees. The term may include, under appropriate circumstances,  
1-45 a county judge, county commissioner, commissioners court, manager  
1-46 or administrator of a county, director of personnel, personnel  
1-47 board, or one or more other officials regardless of the name by  
1-48 which they are designated.

1-49 Sec. 162.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND  
1-50 RECOGNITION. (a) A county may not be denied local control over  
1-51 wages, salaries, rates of pay, hours of work, other terms and  
1-52 conditions of employment, or other state-mandated personnel  
1-53 issues. A public employer may enter into a mutual agreement  
1-54 governing these issues with an employee association recognized  
1-55 under this chapter as the sole and exclusive bargaining agent for  
1-56 all covered employees that does not advocate the illegal right to  
1-57 strike by county employees. The applicable statutes, local orders  
1-58 or ordinances, and civil service rules govern a term or condition of  
1-59 employment on which the public employer and the association do not  
1-60 agree.

1-61 (b) An agreement under this chapter must be written.

1-62 (c) This chapter does not require the public employer and  
1-63 the recognized employee association to meet and confer or reach an

2-1 agreement on any issue.  
 2-2 (d) This chapter does not authorize an agreement regarding  
 2-3 pension or pension-related matters governed by Subtitle F, Title 8,  
 2-4 Government Code.  
 2-5 Sec. 162.004. PETITION FOR RECOGNITION: ELECTION OR ACTION  
 2-6 BY COMMISSIONERS COURT. (a) Not later than the 30th day after the  
 2-7 date the commissioners court of a county receives from an employee  
 2-8 association a petition signed by the majority of all covered  
 2-9 employees of the county that requests recognition of the  
 2-10 association as the sole and exclusive bargaining agent for all the  
 2-11 covered employees of that employer, the commissioners court shall:  
 2-12 (1) grant recognition of the association as requested  
 2-13 in the petition and find that a public employer may meet and confer  
 2-14 under this chapter without conducting an election by the voters in  
 2-15 the county under Section 162.006;  
 2-16 (2) defer granting recognition of the association and  
 2-17 order an election by the voters in the county under Section 162.006  
 2-18 regarding whether a public employer may meet and confer under this  
 2-19 chapter; or  
 2-20 (3) order a certification election under Section  
 2-21 162.005 to determine whether the association represents a majority  
 2-22 of the covered employees of the county.  
 2-23 (b) If the commissioners court of a county orders a  
 2-24 certification election under Subsection (a)(3) and the employee  
 2-25 association named in the petition is certified to represent a  
 2-26 majority of the covered employees, the commissioners court shall,  
 2-27 not later than the 30th day after the date that results of that  
 2-28 election are certified:  
 2-29 (1) grant recognition of the association as requested  
 2-30 in the petition for recognition and find that a public employer may  
 2-31 meet and confer under this chapter without conducting an election  
 2-32 by the voters in the county under Section 162.006; or  
 2-33 (2) defer granting recognition of the association and  
 2-34 order an election by the voters in the county under Section 162.006  
 2-35 regarding whether a public employer may meet and confer under this  
 2-36 chapter.  
 2-37 Sec. 162.005. CERTIFICATION ELECTION. (a) Except as  
 2-38 provided by Subsection (b), a certification election ordered under  
 2-39 Section 162.004(a)(3) to determine whether an employee association  
 2-40 represents a majority of the covered employees shall be conducted  
 2-41 according to procedures agreeable to the parties.  
 2-42 (b) If the parties are unable to agree on procedures for the  
 2-43 certification election, either party may request the American  
 2-44 Arbitration Association to conduct the election and to certify the  
 2-45 results of the election.  
 2-46 (c) The results of an election shall be certified if the  
 2-47 employee association receives a majority of valid votes cast in the  
 2-48 election.  
 2-49 (d) Certification of the results of an election under this  
 2-50 section resolves the question concerning representation.  
 2-51 (e) The employee association is liable for the expenses of  
 2-52 the certification election, except that if two or more associations  
 2-53 seeking recognition as the sole and exclusive bargaining agent  
 2-54 submit a petition signed by at least 30 percent of the employees  
 2-55 eligible to sign the petition for recognition, all the associations  
 2-56 named in any petition shall share equally the costs of the election.  
 2-57 Sec. 162.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS  
 2-58 CHAPTER. (a) The commissioners court of a county that receives a  
 2-59 petition for recognition under Section 162.004 may order an  
 2-60 election to determine whether a public employer may meet and confer  
 2-61 under this chapter.  
 2-62 (b) An election ordered under this section must be held as  
 2-63 part of the next regularly scheduled general election for county  
 2-64 officials that is held after the date the commissioners court of the  
 2-65 county orders the election and that allows sufficient time to  
 2-66 prepare the ballot in compliance with other requirements of law.  
 2-67 (c) The ballot for an election ordered under this section  
 2-68 shall be printed to permit voting for or against the proposition:  
 2-69 "Authorizing \_\_\_\_\_ (name of the county) to operate under the

3-1 state law allowing a county to meet and confer and make agreements  
3-2 with the association representing county employees as provided by  
3-3 state law, preserving the prohibition against strikes and organized  
3-4 work stoppages, and providing penalties for strikes and organized  
3-5 work stoppages."

3-6 (d) An election called under this section must be held and  
3-7 the returns prepared and canvassed in conformity with the Election  
3-8 Code.

3-9 (e) If an election authorized under this section is held,  
3-10 the county may operate under the other provisions of this chapter  
3-11 only if a majority of the votes cast at the election favor the  
3-12 proposition.

3-13 (f) If an election authorized under this section is held, an  
3-14 employee association may not submit a petition for recognition to  
3-15 the commissioners court of the county under Section 162.004 before  
3-16 the second anniversary of the date of the election.

3-17 Sec. 162.007. CHANGE OR MODIFICATION OF RECOGNITION.

3-18 (a) The county employees may modify or change the recognition of  
3-19 the employee association granted under this chapter by filing with  
3-20 the commissioners court of the county a petition signed by a  
3-21 majority of all covered employees.

3-22 (b) The commissioners court of the county may:

3-23 (1) recognize the change or modification as provided  
3-24 by the petition; or

3-25 (2) order a certification election in accordance with  
3-26 Section 162.005 regarding whether to do so.

3-27 Sec. 162.008. STRIKES PROHIBITED. (a) A county employee  
3-28 may not engage in a strike or organized work stoppage against this  
3-29 state or the county.

3-30 (b) A county employee who participates in a strike forfeits  
3-31 any civil service rights, reemployment rights, and other rights,  
3-32 benefits, or privileges the employee may have as a result of the  
3-33 employee's employment or prior employment with the county.

3-34 (c) This section does not affect the right of a person to  
3-35 cease work if the person is not acting in concert with others in an  
3-36 organized work stoppage.

3-37 Sec. 162.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A  
3-38 public employer that chooses to meet and confer under this chapter  
3-39 shall recognize an employee association that is recognized under  
3-40 Section 162.004 or 162.005 as the sole and exclusive bargaining  
3-41 agent for the covered employees of that employer.

3-42 (b) The public employer shall recognize the employee  
3-43 association until recognition of the association is withdrawn, in  
3-44 accordance with Section 162.007, by a majority of the county  
3-45 employees eligible to sign a petition for recognition.

3-46 Sec. 162.010. SELECTION OF BARGAINING AGENT; BARGAINING  
3-47 UNIT. (a) The county judge shall select one or more persons to  
3-48 represent the public employer as its sole and exclusive bargaining  
3-49 agent to meet and confer on issues related to the wages, hours of  
3-50 employment, and other terms and conditions of employment of county  
3-51 employees.

3-52 (b) An employee association may designate one or more  
3-53 persons to negotiate or bargain on the association's behalf.

3-54 (c) A county's bargaining unit is composed of all the  
3-55 covered employees of the county.

3-56 Sec. 162.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and  
3-57 confer agreement ratified under this chapter may not interfere with  
3-58 the right of a member of a bargaining unit to pursue allegations of  
3-59 discrimination based on race, creed, color, national origin,  
3-60 religion, age, sex, or disability with the Texas Workforce  
3-61 Commission civil rights division or the federal Equal Employment  
3-62 Opportunity Commission or to pursue affirmative action litigation.

3-63 Sec. 162.012. OPEN RECORDS. (a) A proposed meet and  
3-64 confer agreement is available to the public under Chapter 552,  
3-65 Government Code, only after the agreement is ready to be ratified by  
3-66 the commissioners court of the county. A document prepared and used  
3-67 by the county, including a public employer, in connection with the  
3-68 proposed agreement is available to the public under Chapter 552,  
3-69 Government Code, only after the agreement is 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. 162.013. 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. 162.014. 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. 162.015. 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 162.004 without conducting an election under Section  
4-43 162.006 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 162.006 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 162.006.

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 162.004 before  
5-9 the second anniversary of the date of the election.

5-10 Sec. 162.016. 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. 162.017. 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 personnel governing body, civil service commission, or  
5-41 county, other than a statute, order, ordinance, executive order,  
5-42 civil service provision, or rule regarding pensions or  
5-43 pension-related matters.

5-44 SECTION 2. This Act takes effect September 1, 2009.

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