

By: Gallegos

S.B. No. 2490

A BILL TO BE ENTITLED

AN ACT

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

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 162 to read as follows:

CHAPTER H. LOCAL CONTROL OF EMPLOYMENT MATTERS IN CERTAIN COUNTIES

Sec. 162.001. APPLICABILITY. (a) This chapter applies only to a County with a population of three million or more.

(b) This chapter does not apply to

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

(2) an employee association in which those employees participate.

Sec. 162.002. DEFINITIONS. In this chapter:

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

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

1 (3) "Public Employer" means any county that is
2 required to establish the wages, salaries, rates of pay, hours,
3 working conditions, and other terms and conditions of employment of
4 public employees. The term may include, under appropriate
5 circumstances, a Commissioner's Court, manager, administrator of a
6 county, county governing body, director of personnel, personnel
7 board, or one or more other officials regardless of the name by
8 which they are designated.

9 Sec. 162.003. GENERAL PROVISIONS RELATING TO AGREEMENTS AND
10 RECOGNITION. (a) A county may not be denied local control over
11 wages, salaries, rates of pay, hours of work, other terms and
12 conditions of employment, or other state-mandated personnel
13 issues. A county may enter into a mutual agreement governing these
14 issues with an employee association recognized under this chapter
15 as the sole and exclusive bargaining agent for all covered
16 employees of that employer that does not advocate the illegal right
17 to strike by county employees. The applicable statutes, local
18 ordinances, and civil service rules govern a term or condition of
19 employment on which the public employer and the association do not
20 agree.

21 (b) An agreement under this chapter must be written.

22 (c) This chapter does not require the county and the
23 recognized employee association to meet and confer or reach an
24 agreement on any issue.

25 (d) This chapter does not authorize an agreement regarding
26 pensions or pension-related matters governed by Subtitle F, Title
27 8, Texas Government Code.

1 Sec. 162.004. PETITION FOR RECOGNITION: ELECTION OR ACTION
2 BY GOVERNING BODY. (a) Not later than the 30th day after the date
3 the commissioners court of a county receives from an employee
4 association a petition signed by the majority of all covered
5 employees of a county that requests recognition of the association
6 as the sole and exclusive bargaining agent for all the covered
7 employees of that employer, the commissioners court shall:

8 (1) grant recognition of the association as requested
9 in the petition and find that a county may meet and confer under
10 this chapter without conducting an election by the voters in the
11 county under Section 162.006;

12 (2) defer granting recognition of the association and
13 order an election by the voters in the county under Section 162.006
14 regarding whether a county may meet and confer under this chapter;
15 or

16 (3) order a certification election under Section
17 162.005 to determine whether the association represents a majority
18 of the covered employees of the county.

19 (b) If the commissioners court of a county orders a
20 certification election under Subsection (a)(3) and the association
21 named in the petition is certified to represent a majority of the
22 covered employees, the commissioners court shall, not later than
23 the 30th day after the date that results of that election are
24 certified:

25 (1) grant recognition of the association as requested
26 in the petition for recognition and find that a county may meet and
27 confer under this chapter without conducting an election by the

1 voters in the county under Section 162.006; or

2 (2) defer granting recognition of the association and
3 order an election by the voters in the county under Section 162.006
4 regarding whether a county may meet and confer under this chapter.

5 Sec. 162.005. CERTIFICATION ELECTION. (a) Except as
6 provided by Subsection (b), a certification election ordered under
7 Section 162.004(a)(3) to determine whether an employee association
8 represents a majority of the covered employees shall be conducted
9 according to procedures agreeable to the parties.

10 (b) If the parties are unable to agree on procedures for the
11 certification election, either party may request the American
12 Arbitration Association to conduct the election and to certify the
13 results of the election.

14 (c) The results of an election shall be certified if the
15 employee association receives a majority of the valid votes cast in
16 the election.

17 (d) Certification of the results of an election under this
18 section resolves the question concerning representation.

19 (e) The association is liable for the expenses of the
20 certification election, except that if two or more associations
21 seeking recognition as the sole and exclusive bargaining agent
22 submit a petition signed by at least 30 percent of the employees
23 eligible to sign the petition for recognition, all the associations
24 named in any petition shall share equally the costs of the election.

25 Sec. 162.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS
26 CHAPTER. (a) The commissioners court of a county that receives a
27 petition for recognition under Section 162.004 may order an

1 election to determine whether a county may meet and confer under
2 this chapter.

3 (b) An election ordered under this section must be held as
4 part of the next regularly scheduled general election for county
5 officials that is held after the date the commissioners court of the
6 county orders the election and that allows sufficient time to
7 prepare the ballot in compliance with other requirements of law.

8 (c) The ballot for an election ordered under this section
9 shall be printed to permit voting for or against the proposition:
10 "Authorizing (name of the county) to operate under the state
11 law allowing a county to meet and confer and make agreements with
12 the association representing county employees as provided by state
13 law, preserving the prohibition against strikes and organized work
14 stoppages, stoppages and providing penalties for strikes and
15 organized work stoppages."

16 (d) An election called under this section must be held and
17 the returns prepared and canvassed in conformity with the Election
18 Code.

19 (e) If an election authorized under this section is held,
20 the county may operate under the other provisions of this chapter
21 only if a majority of the votes cast at the election favor the
22 proposition.

23 (f) If an election authorized under this section is held, an
24 association may not submit a petition for recognition for that
25 county to the commissioners court of the county under Section
26 162.004 before the second anniversary of the date of the election.

27 Sec. 162.007. CHANGE OR MODIFICATION OF

1 RECOGNITION. (a) The county employees may modify or change the
2 recognition of the employee association granted under this chapter
3 by filing with the commissioners court of the county a petition
4 signed by a majority of all covered employees.

5 (b) The commissioners court of the county may:

6 (1) recognize the change or modification as provided
7 by the petition; or

8 (2) order a certification election in accordance with
9 Section 162.005 regarding whether to do so.

10 Sec. 162.008. STRIKES PROHIBITED. (a) A county employee
11 may not engage in a strike or organized work stoppage against this
12 state, or a county.

13 (b) A county employee who participates in a strike forfeits
14 any civil service rights, reemployment rights, and other rights,
15 benefits, or privileges the employee may have as a result of the
16 employee's employment or prior employment with the county.

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

20 Sec. 162.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) A
21 county that chooses to meet and confer under this chapter shall
22 recognize an association that is recognized under Section 162.004
23 or 162.005 as the sole and exclusive bargaining agent for the
24 covered employees of that employer.

25 (b) the county shall recognize the employee association
26 until recognition of the association is withdrawn, in accordance
27 with Section 162.007, by a majority of the county employees

1 eligible to sign a petition for recognition.

2 Sec. 162.010. SELECTION OF BARGAINING AGENT; BARGAINING
3 UNIT. (a) The commissioners court shall select one or more
4 persons to represent the county as its sole and exclusive
5 bargaining agent to meet and confer on issues related to the wages,
6 hours of employment, and other terms and conditions of employment
7 of county employees.

8 (b) an employee association may designate one or more
9 persons to negotiate or bargain on the association's behalf.

10 (c) A county's bargaining unit is composed of all the
11 covered employees of the county.

12 Sec. 162.011. PROTECTED RIGHTS OF EMPLOYEES. A meet and
13 confer agreement ratified under this chapter may not interfere with
14 the right of a member of a bargaining unit to pursue allegations of
15 discrimination based on race, creed, color, national origin,
16 religion, age, sex, or disability with the Texas Workforce
17 Commission civil rights division or the federal Equal Employment
18 Opportunity Commission or to pursue affirmative action litigation.

19 Sec. 162.012. OPEN RECORDS. (a) A proposed meet and
20 confer agreement and a document prepared and used by the county,
21 including a public employer, in connection with the proposed
22 agreement are available to the public under chapter 552, Government
23 Code, only after the agreement is ready to be ratified by the
24 commissioners court of the county.

25 (b) This section does not affect the application of Chapter
26 C, chapter 552, Government Code, to a document prepared and used in
27 connection with the agreement.

1 Sec. 162.013. OPEN DELIBERATIONS. (a) Deliberations
2 relating to a meet and confer agreement or proposed agreement under
3 this chapter between representatives of the county and
4 representatives of the employee association recognized under this
5 chapter as the sole and exclusive bargaining agent for the covered
6 employees must be open to the public and comply with state law.

7 (b) Subsection (a) may not be construed to prohibit the
8 representatives of the county or the representatives of the
9 recognized employee association from conducting private caucuses
10 that are not open to the public during meet and confer negotiations.

11 Sec. 162.014. RATIFICATION AND ENFORCEABILITY OF
12 AGREEMENT. (a) An agreement under this chapter is enforceable
13 and binding on the county, the recognized employee association, and
14 the employees covered by the meet and confer agreement only if:

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

17 (2) the recognized employee association ratified the
18 agreement by conducting a secret ballot election at which the
19 majority of the covered employees who are members of the
20 association favored ratifying the agreement.

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

26 (c) A state district court of a judicial district in which
27 the county is located has jurisdiction to hear and resolve a dispute

1 under the ratified meet and confer agreement on the application of a
2 party to the agreement aggrieved by an action or omission of the
3 other party when the action or omission is related to a right, duty,
4 or obligation provided by the agreement. The court may issue proper
5 restraining orders, temporary and permanent injunctions, or any
6 other writ, order, or process, including contempt orders, that are
7 appropriate to enforcing the agreement.

8 Sec. 162.015. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
9 OPERATE UNDER THIS chapter. (a) The commissioners court of a
10 county that granted recognition of an employee association under
11 Section 162.004 without conducting an election under Section
12 162.006 may withdraw recognition of the association by providing to
13 the association not less than 90 days' written notice that:

14 (1) the commissioners court is withdrawing
15 recognition of the association; and

16 (2) any agreement between the commissioners court and
17 the association will not be renewed.

18 (b) The commissioners court of a county that granted
19 recognition of an employee association after conducting an election
20 under Section 162.006 may order an election to determine whether a
21 county may continue to meet and confer under this chapter. The
22 commissioners court may not order an election under this subsection
23 until the second anniversary of the date of the election under
24 Section 162.006.

25 (c) An election ordered under Subsection (b) must be held as
26 part of the next regularly scheduled general election for county
27 officers that occurs after the date the commissioners court of the

1 county orders the election and that allows sufficient time to
2 prepare the ballot in compliance with other requirements of law.

3 (d) The ballot for an election ordered under Subsection (b)
4 shall be printed to permit voting for or against the proposition:
5 "Authorizing (name of the county) to continue to operate under the
6 state law allowing a county to meet and confer and make agreements
7 with the association representing county employees as provided by
8 state law, preserving the prohibition against strikes and organized
9 work stoppages, and providing penalties for strikes and organized
10 work stoppages."

11 (e) An election ordered under Subsection (b) must be held
12 and the returns prepared and canvassed in conformity with the
13 Election Code.

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

17 (g) If an election ordered under Subsection (b) is held, an
18 association may not submit a petition for recognition to the
19 commissioners court of the county under Section 162.004 before the
20 second anniversary of the date of the election.

21 Sec. 162.016. ELECTION TO REPEAL AGREEMENT. (a) Not later
22 than the 45th day after the date a meet and confer agreement is
23 ratified by the commissioners court of the county and the
24 recognized employee association, a petition calling for the repeal
25 of the agreement signed by at least 10 percent of the qualified
26 voters residing in the county may be presented to the person charged
27 with ordering an election under Section 3.004, Election Code.

1 (b) If a petition is presented under Subsection (a), the
2 commissioners court of the county shall:

3 (1) repeal the meet and confer agreement; or

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

6 (c) An election called under Subsection (b)(2) may be held
7 as part of the next regularly scheduled general election for the
8 county or at a special election called by the commissioners court
9 for that purpose. The ballot shall be printed to permit voting for
10 or against the proposition: "Repeal the meet and confer agreement
11 ratified on _____ (date agreement was ratified) by the _____ (name
12 of the commissioners court of the county) and the _____ (name of the
13 recognized employee association) concerning wages, salaries, rates
14 of pay, hours of work, and other terms of employment."

15 (d) If a majority of the votes cast at the election favor the
16 repeal of the agreement, the agreement is void.

17 Sec. 162.017. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
18 A written meet and confer agreement ratified under this chapter
19 preempts, during the term of the agreement and to the extent of any
20 conflict, all contrary state statutes, local ordinances, executive
21 orders, civil service provisions, or rules adopted by this state or
22 a political subdivision or agent of this state, including a
23 personnel commissioners court, civil service commission, or
24 county, other than a statute, ordinance, executive order, civil
25 service provision, or rule regarding pensions or pension-related
26 matters.

27 SECTION 2. This Act takes effect September 1, 2009.