

BILL ANALYSIS

Senate Research Center
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S.B. 1268
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1268 establishes a meet and confer policy as it relates to the conditions of employment for law enforcement officers and correctional officers employed in counties with a population of four million or more. S.B. 1268 is specific for the sheriff's department peace officers and correctional officers employed by Harris County in the Harris County Sheriff's Department. Currently, Texas peace officer associations are legally allowed to meet and confer with employers to negotiate terms of employment if the legislature has passed specific statutory authority. Legislation that was similar to this legislation for the Harris County sheriff's employees was passed in 1993 for the Houston Fire Department, in 1997 for the Houston Police Department, and in 2001 for the Houston Metropolitan Transit Authority Police Department. This bill amends the Local Government Code, to allow associations representing law enforcement officers and correctional officers employed by the county to meet and confer with the public employer concerning terms of employment.

S.B. 1268 amends the Local Government Code, as it relates to the conditions of employment for law enforcement officers and correctional officers employed in counties with a population of four million or more. Current law is silent on this specific organization.

As proposed, S.B. 1268 amends current law relating to the right of sheriff's departments in certain counties to maintain local control over wages, hours, and other terms and conditions of employment.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 158, Local Government Code, by adding Subchapter C, as follows:

SUBCHAPTER C. LOCAL CONTROL OVER SHERIFF'S DEPARTMENT EMPLOYMENT MATTERS IN CERTAIN COUNTIES

Sec. 158.101. **APPLICABILITY.** Provides that this subchapter applies only to a county with a population of more than four million.

Sec. 158.102. **DEFINITIONS.** Defines "covered employee," "employee association," and "public employer" in this subchapter.

Sec. 158.103. **GENERAL PROVISIONS RELATING TO AGREEMENTS AND RECOGNITION.** (a) Prohibits a public employer from being denied local control over wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other state-mandated personnel issues. Authorizes a public employer to enter into a mutual agreement governing these issues with an employee association recognized under this subchapter as the sole and exclusive bargaining agent for all covered employees that does not advocate the illegal right to strike by county employees. Provides that the

applicable statutes, local ordinances, and civil service rules govern a term or condition of employment on which the public employer and the association do not agree.

(b) Requires that an agreement under this subchapter be written.

(c) Provides that this subchapter does not require the public employer and the recognized employee association to meet and confer on any issue or reach an agreement on any issue.

Sec. 158.104. PETITION FOR RECOGNITION: ELECTION OR ACTION BY COMMISSIONERS COURT. (a) Requires the commissioners court, not later than the 30th day after the date the commissioners court of a county receives from an employee association a petition signed by the majority of all covered employees that requests recognition of the association as the sole and exclusive bargaining agent for all the covered employees, to:

(1) grant recognition of the association as requested in the petition and find that a public employer may meet and confer under this subchapter without conducting an election by the voters in the county under Section 158.106;

(2) defer granting recognition of the association and order an election by the voters in the county under Section 158.106 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 158.105 to determine whether the association represents a majority of the covered employees.

(b) Requires the commissioners court, if the commissioners court of a county orders a certification election under Subsection (a)(3) and the employee association named in the petition is certified to represent a majority of the covered employees, not later than the 30th day after the date that results of that election are certified, to:

(1) grant recognition of the association as requested in the petition for recognition and find that a public employer may meet and confer under this subchapter without conducting an election by the voters in the county under Section 158.106; or

(2) defer granting recognition of the association and order an election by the voters in the county under Section 158.106 regarding whether a public employer may meet and confer under this subchapter.

Sec. 158.105. CERTIFICATION ELECTION. (a) Requires that a certification election ordered under Section 158.104(a)(3) to determine whether an employee association represents a majority of the covered employees, except as provided by Subsection (b), be conducted according to procedures agreeable to the parties.

(b) Authorizes either party, if the parties are unable to agree on procedures for the certification election, to request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Requires that the results of an election be certified if the employee association receives a majority of the valid votes cast in the election.

(d) Provides that certification of the results of an election under this section resolves the question concerning representation.

(e) Provides that the employee association is liable for the expenses of the certification election, except that if two or more associations seeking recognition

as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the employees eligible to sign the petition for recognition, all the associations named in any petition are required to share equally the costs of the election.

Sec. 158.106. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) Authorizes a commissioners court that receives a petition for recognition under Section 158.104 to order an election to determine whether a public employer is authorized to meet and confer under this subchapter.

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

(c) Sets forth the required language for the ballot.

(d) Requires an election called under this section to be held and the returns prepared and canvassed in conformity with the Election Code.

(e) Authorizes the county, if an election authorized under this section is held, to operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) Prohibits an employee association, if an election authorized under this section is held, from submitting a petition for recognition to the commissioners court under Section 158.104 before the second anniversary of the date of the election.

Sec. 158.107. CHANGE OR MODIFICATION OF RECOGNITION. (a) Authorizes covered employees to modify, change, or withdraw the recognition of the employee association granted under this subchapter by filing with the commissioners court a petition signed by a majority of all covered employees.

(b) Authorizes the commissioners court to recognize the modification, change, or withdrawal as provided by the petition, or order a certification election in accordance with Section 158.105 regarding whether to do so.

Sec. 158.108. STRIKES PROHIBITED. (a) Prohibits a covered employee from engaging in a strike or organized work stoppage against this state or the county.

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

(c) Provides that 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. 158.109. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) Requires a public employer in a county that chooses to meet and confer under this subchapter to recognize an association that is recognized under Section 158.104 or 158.105 as the sole and exclusive bargaining agent for the covered employees.

(b) Requires the public employer to recognize the employee association until recognition of the association is withdrawn, in accordance with Section 158.107, by a majority of the covered employees eligible to sign a petition for recognition.

Sec. 158.110. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) Requires the public employer's chief executive officer or the chief executive officer's designee to select one or more persons to represent the public employer as its sole and

exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of covered employees.

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

(c) Provides that a county's bargaining unit is composed of all the covered employees.

Sec. 158.111. PROTECTED RIGHTS OF EMPLOYEES. Prohibits a meet and confer agreement ratified under this subchapter from interfering with the right of a covered employee 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. 158.112. OPEN RECORDS. (a) Provides that a proposed meet and confer agreement and a document prepared and used by the county, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552 (Public Information), Government Code, only after the agreement is ready to be ratified by the commissioners court of the county.

(b) Provides that this section does not affect the application of Subchapter C (Information Exempted From Required Disclosure), Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

Sec. 158.113. OPEN DELIBERATIONS. (a) Requires that deliberations relating to a meet and confer agreement or proposed agreement under this subchapter between representatives of the public employer and representatives of the employee association recognized under this subchapter as the sole and exclusive bargaining agent for the covered employees be open to the public and comply with state law.

(b) Prohibits Subsection (a) from being construed to prohibit the representatives of the public employer or the representatives of the recognized employee association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Sec. 158.114. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) Provides that an agreement under this subchapter is enforceable and binding on the public employer, the recognized employee association, and the employees covered by the meet and confer agreement only if:

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

(2) the recognized employee association ratified the agreement by conducting a secret ballot election at which the majority of the members of the employee association who voted in the election favored ratifying the agreement.

(b) Authorizes a meet and confer agreement ratified, as described by Subsection (a), to 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) Provides that 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. Authorizes the court to 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. 158.115. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) Authorizes the commissioners court of a county that granted recognition of an employee association under Section 158.104 without conducting an election under Section 158.106 to withdraw recognition of the association by providing to the association not less than 90 days' written notice that the commissioners court is withdrawing recognition of the association, and any agreement between the commissioners court and the association will not be renewed.

(b) Authorizes the commissioners court that granted recognition of an employee association after conducting an election under Section 158.106 to order an election to determine whether a public employer may continue to meet and confer under this subchapter. Prohibits the commissioners court from ordering an election under this subsection until the second anniversary of the date of the election under Section 158.106.

(c) Requires that an election ordered under Subsection (b) be held as part of the next regularly scheduled general election for county officers that occurs after the date the commissioners court orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) Sets forth the required language for the ballot.

(e) Requires that an election ordered under Subsection (b) be held and the returns prepared and canvassed in conformity with the Election Code.

(f) Authorizes the county, if an election ordered under Subsection (b) is held, to continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) Prohibits an employee association, if an election ordered under Subsection (b) is held, from submitting a petition for recognition to the commissioners court under Section 158.104 before the second anniversary of the date of the election.

Sec. 158.116. ELECTION TO REPEAL AGREEMENT. (a) Authorizes a petition calling for the repeal of the agreement signed by at least 10 percent of the qualified voters residing in the county, not later than the 45th day after the date a meet and confer agreement is ratified by the commissioners court and the recognized employee association, to be presented to the person charged with ordering an election under Section 3.004 (Election of Political Subdivision), Election Code.

(b) Requires the commissioners court, if a petition is presented under Subsection (a), to :

(1) repeal the meet and confer agreement; or

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

(c) Authorizes that an election called under Subsection (b)(2) be held as part of the next regularly scheduled general election for the county or at a special election called by the commissioners court for that purpose. Sets forth the required language for the ballot.

(d) Provides that if a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Sec. 158.117. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. Provides that a written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by this state or a political subdivision or agent of this state, including a personnel board or civil service commission, other than a statute, ordinance, executive order, civil service provision, or rule regarding pensions or pension-related matters.

SECTION 2. Effective date: upon passage or September 1, 2011.