

By: Davis of Dallas

H.B. No. 1659

A BILL TO BE ENTITLED

AN ACT

relating to conditions of employment for an employee of certain sheriff's departments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 158, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. LOCAL CONTROL OF SHERIFF'S DEPARTMENT

EMPLOYMENT MATTERS

Sec. 158.071. APPLICABILITY. This subchapter applies only to a county in which a sheriff's department civil service system has been created under Subchapter B and in which Chapter 174 has not been adopted.

Sec. 158.072. DEFINITIONS. In this subchapter:

(1) "Association" means an organization in which employees of a sheriff's department participate and that exists, wholly or partly, to deal with a public employer regarding grievances, labor disputes, wages, rates of pay, hours of work, or working conditions affecting the employees.

(2) "Public employer" means a sheriff's department, a county, or an agency, board, commission, or political subdivision controlled by a county that is required to establish wages, salaries, rates of pay, hours of work, working conditions, and other terms of employment.

Sec. 158.073. GENERAL PROVISIONS RELATING TO AGREEMENTS,

1 RECOGNITION, AND STRIKES. (a) A county may not be denied local
2 control over the wages, salaries, rates of pay, hours of work,
3 working conditions, other terms of employment, or other
4 state-mandated personnel issues, to the extent the public employer
5 and the association recognized as the bargaining agent under
6 Section 158.074 agree under this subchapter. Applicable statutes,
7 local orders, ordinances, and civil service rules and regulations
8 apply to an issue not governed by an agreement.

9 (b) This subchapter does not require a public employer or a
10 recognized association to meet and confer on any issue or reach an
11 agreement.

12 (c) A public employer and a recognized association may meet
13 and confer only if the association does not advocate the illegal
14 right to strike by public employees.

15 (d) An employee of a sheriff's department may not engage in
16 a strike or organized work stoppage. An employee who participates
17 in a strike forfeits all rights, benefits, or privileges the
18 employee may have as a result of the person's employment or prior
19 employment with the sheriff's department, including any civil
20 service or reemployment right. This subsection does not affect the
21 right of a person to cease work if the person is not acting in
22 concert with others in an organized work stoppage.

23 Sec. 158.074. RECOGNITION OF ASSOCIATION. (a) In a county
24 that chooses to meet and confer under this subchapter, the public
25 employer shall recognize an association submitting a petition for
26 recognition signed by a majority of the employees of the sheriff's
27 department, excluding the sheriff and persons the sheriff has

1 designated as exempt under Section 158.038, as the sole and
2 exclusive bargaining agent for the employees of the sheriff's
3 department, excluding the sheriff and persons the sheriff has
4 designated as exempt under Section 158.038, until recognition of
5 the association is withdrawn by a majority of the employees
6 eligible to sign a petition for recognition.

7 **(b) Whether an association represents a majority of covered**
8 **employees must be resolved by an election conducted according to**
9 **procedures agreeable to the parties. If the parties are unable to**
10 **agree on election procedures, either party may request the American**
11 **Arbitration Association to conduct the election and to certify the**
12 **results. Certification of the results of an election under this**
13 **subsection resolves the question concerning representation. An**
14 **association seeking recognition as the sole and exclusive**
15 **bargaining agent is liable for the expenses of the election, except**
16 **that if two or more associations seeking recognition submit**
17 **petitions signed by a majority of the employees eligible to sign the**
18 **petition, the associations shall share equally the costs of the**
19 **election.**

20 **Sec. 158.075. OPEN RECORDS. (a) A proposed agreement or**
21 **document prepared and used by a sheriff's department in connection**
22 **with a proposed agreement shall be available to the public under**
23 **Chapter 552, Government Code, only after the agreement is ratified**
24 **by the commissioners court under Section 158.076.**

25 **(b) This section does not affect the application of**
26 **Subchapter C, Chapter 552, Government Code, to a document prepared**
27 **and used by a sheriff's department in connection with an agreement.**

1 Sec. 158.076. RATIFICATION AND ENFORCEABILITY OF
2 AGREEMENT. (a) An agreement under this subchapter is enforceable
3 and binding on the public employer, association, and employees
4 covered by the agreement only if:

5 (1) the commissioners court in the county in which the
6 public employer is located ratifies the agreement by a majority
7 vote; and

8 (2) the employees in the association ratify the
9 agreement by majority vote using a secret ballot.

10 (b) A district court in the county in which the public
11 employer is located has jurisdiction to hear and resolve a dispute
12 under a ratified agreement on the application of a party to the
13 agreement aggrieved by an action or omission of the other party if
14 the action or omission is related to a right, duty, or obligation
15 provided by the agreement. The court may issue restraining orders,
16 temporary and permanent injunctions, or any other writ, order, or
17 process, including contempt orders, that are appropriate to enforce
18 the agreement.

19 Sec. 158.077. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.
20 An agreement ratified under this subchapter preempts, during the
21 term of the agreement, and to the extent of any conflict, all
22 contrary state statutes, local ordinances, executive orders, civil
23 service provisions, or rules adopted by the sheriff or county or a
24 division or agent of the sheriff or county, including a personnel
25 board or civil service commission.

26 Sec. 158.078. REPEAL OF AGREEMENT BY ELECTORATE. (a) Not
27 later than the 45th day after the date an agreement is ratified by a

1 county and an association, a petition signed by a number of
2 registered voters of the county equal to 10 percent of the votes
3 cast in the county in the most recent general election may be
4 presented to the county clerk requesting an election for the repeal
5 of the agreement.

6 (b) On receipt of a petition, the commissioners court shall
7 reconsider the agreement and repeal the agreement or call an
8 election on the question of whether to repeal the agreement.

9 (c) The election ballot shall be printed to permit voting
10 for or against the proposition: "Repeal of an agreement ratified by
11 the county and the sheriff's department association concerning
12 wages, salaries, rates of pay, hours of work, working conditions,
13 and other terms of employment."

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

16 Sec. 158.079. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a)
17 For the purpose of a disciplinary appeal to a civil service
18 commission or to a hearing examiner, a member of an association may
19 choose to be represented by any person or by the association.

20 (b) An agreement under this subchapter may not interfere
21 with the right of a member of an association to pursue allegations
22 of discrimination based on race, creed, color, national origin,
23 religion, age, sex, or disability with the Texas Workforce
24 Commission civil rights division or the United States Equal
25 Employment Opportunity Commission or to pursue affirmative action
26 litigation.

27 SECTION 2. This Act takes effect September 1, 2011.