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By:  Walle H.B. No. 4308

A BILL TO BE ENTITLED

AN ACT

relating to conditions of employment for an employee of certain sheriff's or constable'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 OR CONSTABLE'S DEPARTMENTEMPLOYMENT MATTERS

Sec. 158.071.  APPLICABILITY. This subchapter applies only to a county with a population of 3.3 million or more 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 or constable'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 or constable'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, RECOGNITION, AND STRIKES. (a) A county may not be denied local control over the wages, salaries, rates of pay, hours of work, working conditions, other terms of employment, or other state-mandated personnel issues, to the extent the public employer and the association recognized as the bargaining agent under Section 158.074 agree under this subchapter. Applicable statutes, local orders, ordinances, and civil service rules and regulations apply to an issue not governed by an agreement.

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

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

(d)  An employee of a sheriff's or constable's department may not engage in a strike or organized work stoppage. An employee who participates in a strike forfeits all rights, benefits, or privileges the employee may have as a result of the person's employment or prior employment with the sheriff's department or a constable's department, including any civil service or reemployment right. This subsection 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. 158.074.  RECOGNITION OF ASSOCIATION. (a) In a county that chooses to meet and confer under this subchapter, the public employer shall recognize an association submitting a petition for recognition signed by a majority of the employees of the sheriff's department or a constable's department, excluding the sheriff or constable and persons the sheriff or constable has designated as exempt, as the sole and exclusive bargaining agent for the employees of the sheriff's or constable's department, excluding the sheriff or constable and persons the sheriff or constable has designated as exempt, until recognition of the association is withdrawn by a majority of the employees eligible to sign a petition for recognition.

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

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

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

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

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

(2)  the employees in the sheriff's or constable's department represented by the association ratify the agreement by majority vote using a secret ballot.

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

Sec. 158.077.  AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. An 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 the sheriff, a constable, or the county or a division or agent of the sheriff's or constable's office or the county, including a personnel board or civil service commission.

Sec. 158.078.  REPEAL OF AGREEMENT BY ELECTORATE. (a) Not later than the 45th day after the date an agreement is ratified by a county and an association, a petition signed by a number of registered voters of the county equal to 10 percent of the votes cast in the county in the most recent general election may be presented to the county clerk requesting an election for the repeal of the agreement.

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

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

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

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

(b)  An agreement under this subchapter may not interfere with the right of a member of an association 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 United States Equal Employment Opportunity Commission or to pursue affirmative action litigation.

SECTION 2.   This Act takes effect September 1, 2019.