

By: Walle

H.B. No. 3610

A BILL TO BE ENTITLED

AN ACT

relating to local control of the employment matters of officers of the sheriff's department in certain counties.

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 162. LOCAL CONTROL OF EMPLOYMENT MATTERS OF OFFICERS IN SHERIFF'S DEPARTMENT IN CERTAIN COUNTIES

Sec. 162.001. APPLICABILITY. This chapter applies only to a county with a population of 3.3 million or more, but does not apply to a county that has adopted Chapter 174.

Sec. 162.002. DEFINITIONS. In this chapter:

(1) "Sheriff's officer" means a sworn peace officer employed by the county who is covered by the county's pension plan and is classified by the county as nonexempt. The term does not include the sheriff.

(2) "Sheriff's officer employee group" means an organization:

(A) in which at least three percent of the sheriff's officers of the county have participated and paid dues via automatic payroll deduction for at least one year; and

(B) that exists for the purpose, in whole or in part, of dealing with the county concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions

1 of employment affecting sheriff's officers.

2 Sec. 162.003. MEET AND CONFER TEAM; NEGOTIATIONS. (a) A
3 meet and confer team is created under this section and consists of
4 members representing the sheriff's officer employee groups in the
5 county, provided each group may appoint only one sheriff's officer
6 of the county to serve as a member of the team.

7 (b) The meet and confer team represents all sheriff's
8 officers in the county and shall negotiate with the county in an
9 effort to reach an agreement on concerns shared by the sheriff's
10 officers regarding terms of employment, including concerns
11 relating to wages, benefits, and other working conditions but
12 excluding concerns relating to pensions. Only the meet and confer
13 team created under this section may represent the sheriff's
14 officers of the county in the capacity described by this
15 subsection, except that the team may be accompanied by legal
16 counsel.

17 (c) Concerns relating to affirmative action, employment
18 discrimination, hiring, and promotions may be discussed by
19 individual sheriff's officer associations independent of the meet
20 and confer team.

21 (d) Expenses associated with the meet and confer team must
22 be divided pro rata among each sheriff's officer employee group
23 based on the number of sheriff's department members represented by
24 each group.

25 (e) A county may designate one or more persons to meet and
26 confer on the county's behalf.

27 Sec. 162.004. PETITION FOR RECOGNITION: ELECTION OR ACTION

1 BY GOVERNING BODY. (a) Not later than the 30th day after the date
2 a commissioners court receives from the meet and confer team a
3 petition signed by a majority of all sheriff's officers, excluding
4 the sheriff and other excluded employees as described by Section
5 162.008(b), that requests recognition of the meet and confer team
6 as the sole and exclusive bargaining agent for all the sheriff's
7 officers employed by the county, excluding the sheriff and other
8 excluded employees as described by Section 162.008(b), the
9 commissioners court shall:

10 (1) grant recognition of the meet and confer team as
11 requested in the petition and determine by majority vote that the
12 county may meet and confer under this chapter without conducting an
13 election by the voters in the county under Section 162.006;

14 (2) defer granting recognition of the meet and confer
15 team and order an election by the voters in the county under Section
16 162.006 regarding whether the county may meet and confer under this
17 chapter; or

18 (3) order a certification election under Section
19 162.005 to determine whether the employee groups in the meet and
20 confer team represent a majority of the covered sheriff's officers.

21 (b) If a commissioners court orders a certification
22 election under Subsection (a)(3) and the employee groups that are
23 part of the meet and confer team are certified to represent a
24 majority of the covered sheriff's officers, the court shall, not
25 later than the 30th day after the date that results of that election
26 are certified:

27 (1) grant recognition of the meet and confer team as

1 requested in the petition for recognition and determine by majority
2 vote that the county may meet and confer under this chapter without
3 conducting an election by the voters in the county under Section
4 162.006; or

5 (2) defer granting recognition of the meet and confer
6 team and order an election by the voters in the county under Section
7 162.006 regarding whether a public employer may meet and confer
8 under this chapter.

9 Sec. 162.005. CERTIFICATION ELECTION. (a) Except as
10 provided by Subsection (b), a certification election ordered under
11 Section 162.004(a)(3) to determine whether the employee groups in
12 the meet and confer team represent a majority of the covered
13 sheriff's officers shall be conducted according to procedures
14 agreeable to the parties.

15 (b) If the parties are unable to agree on procedures for the
16 certification election, either party may request the American
17 Arbitration Association to conduct the election and to certify the
18 results of the election.

19 (c) Certification of the results of an election under this
20 section resolves the question concerning representation.

21 (d) Each employee group in the meet and confer team is
22 liable for the expenses of the certification election for the
23 employees the group represents.

24 Sec. 162.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS
25 CHAPTER. (a) A commissioners court that receives a petition for
26 recognition under Section 162.004 may order an election to
27 determine whether a public employer may meet and confer under this

1 chapter.

2 (b) An election ordered under this section must be held as
3 part of the next regularly scheduled general election for state and
4 county officers under Section 41.002, Election Code, that is held
5 after the date the commissioners court orders the election and that
6 allows sufficient time to prepare the ballot in compliance with
7 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
11 state law allowing a county to meet and confer and make agreements
12 with the meet and confer team representing sheriff's officers as
13 provided by state law, preserving the prohibition against strikes
14 and organized work stoppages, and providing penalties for strikes
15 and 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, a
24 meet and confer team may not submit a petition for recognition to
25 the commissioners court under Section 162.004 before the second
26 anniversary of the date of the election.

27 Sec. 162.007. WITHDRAWAL OF RECOGNITION. (a) The

1 sheriff's officers may withdraw the recognition of the meet and
2 confer team granted under this chapter by filing with the
3 commissioners court a petition signed by a majority of all covered
4 sheriff's officers.

5 (b) The commissioners court may:

6 (1) withdraw recognition as provided by the petition;
7 or

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

10 Sec. 162.008. RECOGNITION OF MEET AND CONFER TEAM. (a) A
11 public employer in a county that chooses to meet and confer under
12 this chapter shall recognize the meet and confer team that is
13 recognized under Section 162.004 or 162.006 as the sole and
14 exclusive bargaining agent for the sheriff's officers, excluding
15 the sheriff and the employees exempt under Subsection (b), in
16 accordance with this chapter and the petition.

17 (b) For the purposes of Subsection (a), exempt employees are
18 employees appointed by the sheriff in the classification
19 immediately below that of sheriff or that are exempt by the mutual
20 agreement of the meet and confer team and the county.

21 (c) The county shall recognize the meet and confer team
22 until recognition of the meet and confer team is withdrawn in
23 accordance with Section 162.007 by a majority of the sheriff's
24 officers who are eligible to sign a petition for recognition.

25 Sec. 162.009. GENERAL PROVISIONS RELATING TO AGREEMENTS,
26 RECOGNITION, AND STRIKES. (a) A county may not be denied local
27 control over the wages, salaries, rates of pay, hours of work, and

1 other terms of employment, or other state-mandated personnel
2 issues, if the county and the meet and confer team recognized under
3 Section 162.004 or 162.006 as the sole and exclusive bargaining
4 agent for the covered sheriff's officers come to a mutual agreement
5 on any of the terms of employment. If an agreement is not reached,
6 the state laws, local ordinances, and civil service rules remain
7 unaffected. All agreements must be written. Nothing in this
8 chapter requires either party to meet and confer on any issue or
9 reach an agreement.

10 (b) A county may meet and confer only if the meet and confer
11 team does not advocate the illegal right to strike by public
12 employees.

13 (c) Sheriff's officers of a county may not engage in strikes
14 against this state or a political subdivision of this state. A
15 sheriff's officer who participates in a strike forfeits all civil
16 service rights, reemployment rights, and any other rights,
17 benefits, or privileges the officer enjoys as a result of
18 employment or prior employment.

19 (d) In this section, "strike" means failing to report for
20 duty in concerted action with others, wilfully being absent from an
21 assigned position, stopping work, abstaining from the full,
22 faithful, and proper performance of the duties of employment, or
23 interfering with the operation of a county. This section does not
24 prohibit a sheriff's officer from conferring with members of the
25 commissioners court about conditions, compensation, rights,
26 privileges, or obligations of employment.

27 Sec. 162.010. PAYROLL DUES DEDUCTIONS. The county may not

1 prevent automatic payroll deductions for dues paid to a sheriff's
2 officer employee group.

3 Sec. 162.011. RECORDS AND MEETINGS. (a) An agreement made
4 under this chapter is public information for purposes of Chapter
5 552, Government Code. The agreement and any document prepared and
6 used by the county in connection with the agreement, except for
7 materials created during a county's caucuses and notes that are
8 otherwise privileged by law, are available to the public in
9 accordance with Chapter 552, Government Code, only after the
10 agreement is ratified by both parties.

11 (b) This section does not affect the application of
12 Subchapter C, Chapter 552, Government Code, to a document prepared
13 and used by the county in connection with the agreement.

14 Sec. 162.012. ENFORCEABILITY OF AGREEMENT. (a) A written
15 agreement made under this chapter between a county and the meet and
16 confer team is enforceable and binding on the county, the meet and
17 confer team, sheriff's officer employee groups, and the sheriff's
18 officers covered by the agreement if:

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

21 (2) the agreement is ratified under Section 162.013.

22 (b) A state district court of the judicial district in which
23 a majority of the population of the county is located has full
24 authority and jurisdiction on the application of either party
25 aggrieved by an action or omission of the other party when the
26 action or omission is related to a right, duty, or obligation
27 provided by any written agreement ratified as required by this

1 chapter. The court may issue proper restraining orders, temporary
2 and permanent injunctions, and any other writ, order, or process,
3 including contempt orders, that are appropriate to enforcing any
4 written agreement ratified as required by this chapter.

5 Sec. 162.013. ELECTION TO RATIFY AGREEMENT. (a) The meet
6 and confer team shall call an election to ratify any agreement
7 reached with the county if the agreement has been approved by a
8 five-sevenths vote of the members of the meet and confer team.

9 (b) All sheriff's officers of the county are eligible to
10 vote in the election.

11 (c) An agreement may be ratified under this section only if
12 at least 65 percent of the votes cast in the election favor the
13 ratification.

14 (d) A sheriff's officer who is not a member of a sheriff's
15 officer employee group may be assessed a fee for any cost associated
16 with casting the sheriff's officer's vote.

17 (e) The meet and confer team by unanimous consensus shall
18 establish procedures for the election.

19 Sec. 162.014. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
20 OPERATE UNDER THIS CHAPTER. (a) A commissioners court that
21 granted recognition of a meet and confer team under Section 162.004
22 without conducting an election under Section 162.006 may withdraw
23 recognition of the meet and confer team by providing to the meet and
24 confer team not less than 90 days' written notice that:

25 (1) the commissioners court is withdrawing
26 recognition of the meet and confer team; and

27 (2) any agreement between the commissioners court and

1 the meet and confer team will not be renewed.

2 (b) A commissioners court that granted recognition of a meet
3 and confer team after conducting an election under Section 162.006
4 may order an election to determine whether a public employer may
5 continue to meet and confer under this chapter. The commissioners
6 court may not order an election under this subsection until the
7 second anniversary of the date of the election under Section
8 162.006.

9 (c) An election ordered under Subsection (b) must be held as
10 part of the next regularly scheduled general election for state and
11 county officers under Section 41.002, Election Code, that occurs
12 after the date the commissioners court orders the election and that
13 allows sufficient time to prepare the ballot in compliance with
14 other requirements of law.

15 (d) The ballot for an election ordered under Subsection (b)
16 shall be printed to allow voting for or against the proposition:
17 "Authorizing _____ (name of the county) to continue to operate
18 under the state law allowing a county to meet and confer and make
19 agreements with the meet and confer team representing sheriff's
20 officers as provided by state law, preserving the prohibition
21 against strikes and organized work stoppages, and providing
22 penalties for strikes and organized work stoppages."

23 (e) An election ordered under Subsection (b) must be held
24 and the returns prepared and canvassed in conformity with the
25 Election Code.

26 (f) If an election ordered under Subsection (b) is held, the
27 county may continue to operate under this chapter only if a majority

1 of the votes cast at the election favor the proposition.

2 (g) If an election ordered under Subsection (b) is held, a
3 meet and confer team may not submit a petition for recognition to
4 the commissioners court under Section 162.004 before the second
5 anniversary of the date of the election.

6 Sec. 162.015. ELECTION TO REPEAL AGREEMENT. (a) Not later
7 than the 60th day after the date a meet and confer agreement is
8 ratified by the commissioners court and the sheriff's officers
9 under Section 162.013, a petition calling for the repeal of the
10 agreement signed by a number of registered voters residing in the
11 county equal to at least 10 percent of the votes cast at the most
12 recent general election held in the county may be presented to the
13 person charged with ordering an election under Section 3.004,
14 Election Code.

15 (b) If a petition is presented under Subsection (a), the
16 commissioners court shall:

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

18 (2) certify that the commissioners court is not
19 repealing the agreement and call an election to determine whether
20 to repeal the agreement.

21 (c) An election called under Subsection (b)(2) may be held
22 as part of the next regularly scheduled general election for the
23 county. The ballot shall be printed to provide for voting for or
24 against the proposition: "Repeal the meet and confer agreement
25 ratified on _____ (date agreement was ratified) by the
26 commissioners court of _____ (name of the county) and the
27 sheriff's officers employed by _____ (name of county)

1 concerning wages, salaries, rates of pay, hours of work, and other
2 terms of employment."

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

5 Sec. 162.016. EFFECT ON EXISTING BENEFITS AND RIGHTS.

6 (a) This chapter may not be construed to repeal any existing
7 benefit provided by statute or ordinance concerning sheriff's
8 officers' compensation, pensions, retirement plans, hours of work,
9 conditions of employment, or other emoluments except as expressly
10 provided in a ratified meet and confer agreement. This chapter is
11 in addition to the benefits provided by existing statutes and
12 ordinances.

13 (b) This chapter may not be construed to interfere with the
14 free speech right, guaranteed by the First Amendment to the United
15 States Constitution, of an individual sheriff's officer to endorse
16 or dissent from any agreement.

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