

By: Alvarado

S.B. No. 797

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to collective bargaining and conditions of employment for  
3 fire fighters and police officers in certain political  
4 subdivisions.

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

6 SECTION 1. Sections 174.002(a) and (d), Local Government  
7 Code, are amended to read as follows:

8 (a) The policy of this state is that a political subdivision  
9 shall provide its fire fighters and police officers with  
10 compensation and other conditions of employment that are  
11 substantially equal to ~~[the same as]~~ compensation and other  
12 conditions of employment that prevail ~~[prevailing]~~ in comparable  
13 fire and police departments ~~[private sector employment]~~.

14 (d) Because of the essential and emergency nature of the  
15 public service performed by fire fighters and police officers, a  
16 reasonable alternative to strikes is a system of arbitration  
17 conducted under adequate legislative standards. ~~[Another~~  
18 ~~reasonable alternative, if the parties fail to agree to arbitrate,~~  
19 ~~is judicial enforcement of the requirements of this chapter~~  
20 ~~regarding compensation and conditions of employment applicable to~~  
21 ~~fire fighters and police officers.]~~

22 SECTION 2. Section 174.021, Local Government Code, is  
23 amended to read as follows:

24 Sec. 174.021. COMPENSATION ~~[PREVAILING WAGE]~~ AND WORKING

1 CONDITIONS REQUIRED. A political subdivision that employs fire  
2 fighters, police officers, or both, shall provide those employees  
3 with compensation and other conditions of employment that are[+  
4 ~~[(1)]~~ substantially equal to compensation and other  
5 conditions of employment that prevail in comparable fire or police  
6 departments, as applicable [~~employment in the private sector, and~~  
7 ~~[(2)] based on prevailing private sector compensation~~  
8 ~~and conditions of employment in the labor market area in other jobs~~  
9 ~~that require the same or similar skills, ability, and training and~~  
10 ~~may be performed under the same or similar conditions)].~~

11 SECTION 3. The heading to Section 174.153, Local Government  
12 Code, is amended to read as follows:

13 Sec. 174.153. BINDING INTEREST [~~REQUEST FOR~~] ARBITRATION  
14 REQUIRED [~~, AGREEMENT TO ARBITRATE~~].

15 SECTION 4. Section 174.153, Local Government Code, is  
16 amended by amending Subsections (a) and (b) and adding Subsection  
17 (b-1) to read as follows:

18 (a) A public employer and [~~or~~] an association that is a  
19 bargaining agent shall submit to binding interest [~~may request the~~  
20 ~~appointment of an~~] arbitration [~~board~~] if[+  
21

22 ~~[(1)]~~ the parties:

23 (1) [~~(A)~~] reach an impasse in collective bargaining;

24 or

25 (2) [~~(B)~~] are unable to settle after the 61st day  
26 after the date the appropriate lawmaking body fails to approve a  
27 contract reached through collective bargaining[+  
28

29 ~~[(2)] the parties made every reasonable effort,~~

1 ~~including mediation, to settle the dispute through good-faith~~  
2 ~~collective bargaining; and~~

3 ~~[(3) the public employer or association gives written~~  
4 ~~notice to the other party, specifying the issue in dispute].~~

5 (b) Each party shall send to the other party a written  
6 notice specifying each issue in dispute for purposes of binding [A  
7 ~~request for]~~ arbitration ~~[must be made]~~ not later than the fifth day  
8 after:

9 (1) the date an impasse was reached under Section  
10 [174.152](#); ~~[or]~~

11 (2) the expiration of an extension period under  
12 Section [174.152](#); or

13 (3) the expiration of the period described by  
14 Subsection (a)(2).

15 (b-1) A notice under Subsection (b) is considered sent on  
16 the date the notice is placed in the mail, personally delivered, or  
17 transmitted by e-mail or any other means of electronic transfer.

18 SECTION 5. The heading to Section [174.154](#), Local Government  
19 Code, is amended to read as follows:

20 Sec. 174.154. SELECTION OF ARBITRATOR ~~[ARBITRATION BOARD]~~.

21 SECTION 6. Section [174.154](#)(a), Local Government Code, is  
22 amended to read as follows:

23 (a) Not later than the fifth day after the date a party sends  
24 the notice required under Section [174.153](#), the public employer  
25 shall immediately request a list of seven qualified neutral  
26 arbitrators from the American Arbitration Association or the  
27 Federal Mediation and Conciliation Service, or a successor in

1 function. The bargaining agent and the municipality, or their  
2 designees, may agree on one of the seven arbitrators on the list.  
3 If the parties do not select an arbitrator before the sixth working  
4 day after the date the parties received the list, each party or the  
5 party's designee shall alternate striking a name from the list and  
6 the name remaining is the arbitrator [~~an agreement to arbitrate is~~  
7 ~~executed, each party shall:~~

8           [~~(1) select one arbitrator; and~~

9           [~~(2) immediately notify the other party in writing of~~  
10 ~~the name and address of the arbitrator selected].~~

11           SECTION 7. Section 174.155(a), Local Government Code, is  
12 amended to read as follows:

13           (a) The [~~A presiding~~] arbitrator shall:

14           (1) call a hearing to be held not later than the 10th  
15 day after the date on which the [~~presiding~~] arbitrator is selected  
16 [~~appointed~~]; and

17           (2) notify [~~the other arbitrators,~~] the public  
18 employer[~~7~~] and the association in writing of the time and place of  
19 the hearing, not later than the eighth day before the hearing.

20           SECTION 8. Section 174.156(b), Local Government Code, is  
21 amended to read as follows:

22           (b) The arbitrator [~~An arbitration board~~] shall render an  
23 award in accordance with the requirements of Section 174.021. In  
24 settling disputes relating to compensation, hours, and other  
25 conditions of employment, the arbitrator [~~board~~] shall consider:

26           (1) hazards of employment;

27           (2) physical qualifications;

- 1 (3) educational qualifications;
- 2 (4) mental qualifications;
- 3 (5) job training;
- 4 (6) skills; and
- 5 (7) other factors.

6 SECTION 9. Section 174.157(b), Local Government Code, is  
7 amended to read as follows:

8 (b) An arbitrator [~~arbitration board~~] may:

- 9 (1) receive in evidence any documentary evidence or  
10 other information the arbitrator [~~board~~] considers relevant;
- 11 (2) administer oaths; and
- 12 (3) issue subpoenas to require:
  - 13 (A) the attendance and testimony of witnesses;
  - 14 and
  - 15 (B) the production of books, records, and other  
16 evidence relevant to an issue presented to the arbitrator [~~board~~]  
17 for determination.

18 SECTION 10. Sections 174.158(a) and (c), Local Government  
19 Code, are amended to read as follows:

20 (a) Not later than the 10th day after the end of the hearing,  
21 an arbitrator [~~arbitration board~~] shall:

- 22 (1) make written findings; and
- 23 (2) render a written award on the issues presented to  
24 the arbitrator [~~board~~].

25 (c) An increase in compensation awarded by an arbitrator  
26 [~~arbitration board~~] under this subchapter may take effect only at  
27 the beginning of the next fiscal year after the date of the award.

1 SECTION 11. Section 174.159, Local Government Code, is  
2 amended to read as follows:

3 Sec. 174.159. EFFECT OF AWARD. If a ~~[majority]~~ decision of  
4 an arbitrator ~~[arbitration board]~~ is supported by competent,  
5 material, and substantial evidence on the whole record, the  
6 decision:

7 (1) is final and binding on the parties; and

8 (2) may be enforced by either party or the arbitrator  
9 ~~[arbitration board]~~ in a district court for the judicial district  
10 in which a majority of the affected employees reside.

11 SECTION 12. Section 174.161, Local Government Code, is  
12 amended to read as follows:

13 Sec. 174.161. BEGINNING OF NEW FISCAL YEAR. If a new fiscal  
14 year begins after the initiation of arbitration procedures under  
15 this subchapter but before an award is rendered or enforced:

16 (1) the dispute is not moot;

17 (2) the jurisdiction of the arbitrator ~~[arbitration~~  
18 ~~board]~~ is not impaired; and

19 (3) the arbitration award is not impaired.

20 SECTION 13. Section 174.162, Local Government Code, is  
21 amended to read as follows:

22 Sec. 174.162. EXTENSION OF PERIOD. A period specified by  
23 Section 174.155 or 174.158 may be extended:

24 (1) by the written agreement of the parties for a  
25 reasonable period; or

26 (2) by the arbitrator ~~[arbitration board]~~ for good  
27 cause for one or more periods that in the aggregate do not exceed 20

1 days.

2 SECTION 14. Section 174.164(c), Local Government Code, is  
3 amended to read as follows:

4 (c) The public employer and the association representing  
5 the employees shall jointly pay in even proportions:

6 (1) the compensation of the ~~[neutral]~~ arbitrator; and

7 (2) the stenographic and other expenses incurred by  
8 the arbitrator ~~[arbitration board]~~ in connection with the  
9 arbitration proceedings.

10 SECTION 15. Section 174.253, Local Government Code, is  
11 amended to read as follows:

12 Sec. 174.253. JUDICIAL REVIEW OF ARBITRATION AWARD. (a) An  
13 award of an arbitrator ~~[arbitration board]~~ may be reviewed by a  
14 district court for the judicial district in which the municipality  
15 is located only on the grounds that:

16 (1) the arbitrator ~~[arbitration board]~~ was without  
17 jurisdiction;

18 (2) the arbitrator ~~[arbitration board]~~ exceeded the  
19 arbitrator's ~~[its]~~ jurisdiction;

20 (3) the order is not supported by competent, material,  
21 and substantial evidence on the whole record; or

22 (4) the order was obtained by fraud, collusion, or  
23 similar unlawful means.

24 (b) The pendency of a review proceeding does not  
25 automatically stay enforcement of the arbitrator's ~~[arbitration~~  
26 ~~board's]~~ order.

27 SECTION 16. The following provisions of the Local

1 Government Code are repealed:

2 (1) Section 174.153(c);

3 (2) Sections 174.154(b) and (c);

4 (3) Section 174.163;

5 (4) Sections 174.164(a) and (b); and

6 (5) Section 174.252.

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