87R18757 MP-F

By:  Longoria, Perez, Martinez, Patterson H.B. No. 2869

Substitute the following for H.B. No. 2869:

By:  Bernal C.S.H.B. No. 2869

A BILL TO BE ENTITLED

AN ACT

relating to binding interest arbitration for fire fighters in certain political subdivisions.

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

SECTION 1.  Section 174.022(b), Local Government Code, is amended to read as follows:

(b)  If an arbitration award is rendered as provided by Subchapter E or Subchapter H, the public employer involved is considered to be in compliance with the requirements of Section 174.021 as to the conditions of employment provided by the award for the duration of the collective bargaining period to which the award applies.

SECTION 2.  Chapter 174, Local Government Code, is amended by adding Subchapter D-1, and a heading is added to that subchapter to read as follows:

SUBCHAPTER D-1. MEDIATION

SECTION 3.  Section 174.151, Local Government Code, is transferred to Subchapter D-1, Chapter 174, Local Government Code, as added by this Act, and redesignated as Section 174.131, Local Government Code, to read as follows:

Sec. 174.131 [~~174.151~~].  MEDIATION. (a) A public employer and an association that is a bargaining agent may use mediation to assist them in reaching an agreement.

(b)  If a mediator is used, then a mediator may be appointed by agreement of the parties or by an appropriate state agency.

(c)  A mediator may:

(1)  hold separate or joint conferences as the mediator considers expedient to settle issues voluntarily, amicably, and expeditiously; and

(2)  notwithstanding Subsection (d), recommend or suggest to the parties any proposal or procedure that in the mediator's judgment might lead to settlement.

(d)  A mediator may not:

(1)  make a public recommendation on any negotiation issue in connection with the mediator's service; or

(2)  make a public statement or report that evaluates the relative merits of the parties' positions.

SECTION 4.  The heading to Subchapter E, Chapter 174, Local Government Code, is amended to read as follows:

SUBCHAPTER E. POLICE OFFICER [~~MEDIATION;~~] ARBITRATION

SECTION 5.  Subchapter E, Chapter 174, Local Government Code, is amended by adding Section 174.1511 to read as follows:

Sec. 174.1511.  APPLICABILITY. This subchapter applies to arbitration between a public employer and an association that is a bargaining agent for the police officers of a political subdivision's police department.

SECTION 6.  Section 174.154(b), Local Government Code, is amended to read as follows:

(b)  Not later than the 10th day after the date an agreement to arbitrate is executed, the arbitrators named under Subsection (a) shall attempt to select a third (neutral) arbitrator. If the arbitrators are unable to agree on a third arbitrator, either party may request the American Arbitration Association to select the third arbitrator, and the American Arbitration Association may appoint the third arbitrator according to its fair and regular procedures. Unless both parties consent, the third arbitrator may not be the same individual who served as a mediator under Section 174.131 [~~174.151~~].

SECTION 7.  Section 174.156(a), Local Government Code, is amended to read as follows:

(a)  The issues to be arbitrated are all matters the parties are unable to resolve through collective bargaining and mediation procedures required by Subchapters D and D-1 [~~this chapter~~].

SECTION 8.  Section 174.163, Local Government Code, is amended to read as follows:

Sec. 174.163.  COMPULSORY ARBITRATION NOT REQUIRED. This subchapter [~~chapter~~] does not require compulsory arbitration.

SECTION 9.  Section 174.164(b), Local Government Code, is amended to read as follows:

(b)  The compensation, if any, of an arbitrator selected by [~~fire fighters,~~] police officers[~~, or both~~] shall be paid by the association representing the employees.

SECTION 10.  Chapter 174, Local Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. FIRE FIGHTER BINDING INTEREST ARBITRATION

Sec. 174.301.  APPLICABILITY. This subchapter applies to arbitration between a public employer and an association that is a bargaining agent for the fire fighters of a political subdivision's fire department.

Sec. 174.302.  IMPASSE. (a) For purposes of this subchapter, an impasse in the collective bargaining process is considered to have occurred if the parties do not settle in writing each issue in dispute before the 61st day after the date on which the collective bargaining process begins.

(b)  The period specified in Subsection (a) may be extended by written agreement of the parties. An extension must be for a definite period not to exceed 15 days.

Sec. 174.303.  BINDING INTEREST ARBITRATION. (a) A public employer and an association that is a bargaining agent shall submit to binding interest arbitration if the parties:

(1)  reach an impasse in collective bargaining; or

(2)  are unable to settle after the 61st day after the date the appropriate lawmaking body fails to approve a contract reached through collective bargaining.

(b)  Each party shall send to the other party a written notice specifying each issue in dispute for purposes of binding interest arbitration not later than the fifth day after:

(1)  the date an impasse was reached under Section 174.302;

(2)  the expiration of an extension period under Section 174.302; or

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

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

Sec. 174.304.  SELECTION OF ARBITRATOR. Not later than the fifth day after the date a party sends the notice required under Section 174.303, the public employer shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or a successor in function. The bargaining agent and the municipality, or their designees, may agree on one of the seven arbitrators on the list. If the parties do not select an arbitrator before the sixth working day after the date the parties received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the arbitrator.

Sec. 174.305.  ARBITRATION HEARING. (a) The arbitrator shall:

(1)  call a hearing to be held not later than the 10th day after the date on which the arbitrator is selected; and

(2)  notify the public employer and the association in writing of the time and place of the hearing, not later than the eighth day before the hearing.

(b)  An arbitration hearing shall end not later than the 20th day after the date the hearing begins.

(c)  An arbitration hearing shall be informal.

Sec. 174.306.  SCOPE OF ARBITRATION. (a) The issues to be arbitrated are all matters the parties are unable to resolve through collective bargaining and mediation procedures required by Subchapters D and D-1.

(b)  The arbitrator shall render an award in accordance with the requirements of Section 174.021. In settling disputes relating to compensation, hours, and other conditions of employment, the arbitrator shall consider:

(1)  hazards of employment;

(2)  physical qualifications;

(3)  educational qualifications;

(4)  mental qualifications;

(5)  job training;

(6)  skills; and

(7)  other factors.

Sec. 174.307.  EVIDENCE; OATH; SUBPOENA. (a) The rules of evidence applicable to judicial proceedings are not binding in an arbitration hearing.

(b)  An arbitrator may:

(1)  receive in evidence any documentary evidence or other information the arbitrator considers relevant;

(2)  administer oaths; and

(3)  issue subpoenas to require:

(A)  the attendance and testimony of witnesses; and

(B)  the production of books, records, and other evidence relevant to an issue presented to the arbitrator for determination.

Sec. 174.308.  ARBITRATION AWARD. (a) Not later than the 10th day after the end of the hearing, an arbitrator shall:

(1)  make written findings; and

(2)  render a written award on the issues presented to the arbitrator.

(b)  A copy of the findings and award shall be mailed or delivered to the public employer and the association.

(c)  An increase in compensation awarded by an arbitrator under this subchapter may take effect only at the beginning of the next fiscal year after the date of the award.

(d)  If a new fiscal year begins after the initiation of arbitration procedures under this subchapter, Subsection (c) does not apply and an increase in compensation may be retroactive to the beginning of the fiscal year.

Sec. 174.309.  EFFECT OF AWARD. If a decision of an arbitrator is supported by competent, material, and substantial evidence on the whole record, the decision:

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

(2)  may be enforced by either party or the arbitrator in a district court for the judicial district in which a majority of the affected employees reside.

Sec. 174.310.  AMENDMENT OF AWARD. The parties to an arbitration award may amend the award by written agreement at any time.

Sec. 174.311.  BEGINNING OF NEW FISCAL YEAR. If a new fiscal year begins after the initiation of arbitration procedures under this subchapter but before an award is rendered or enforced:

(1)  the dispute is not moot;

(2)  the jurisdiction of the arbitrator is not impaired; and

(3)  the arbitration award is not impaired.

Sec. 174.312.  EXTENSION OF PERIOD. A period specified by Section 174.305 or 174.308 may be extended:

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

(2)  by the arbitrator for good cause for one or more periods that in the aggregate do not exceed 20 days.

Sec. 174.313.  COMPENSATION OF ARBITRATORS; EXPENSES OF ARBITRATION. (a) The public employer and the association representing the employees shall jointly pay in even proportions:

(1)  the compensation of the arbitrator; and

(2)  the stenographic and other expenses incurred by the arbitrator in connection with the arbitration proceedings.

(b)  If a party to arbitration requires a transcript of the arbitration proceedings, the party shall pay the cost of the transcript.

SECTION 11.  The heading to Section 174.252, Local Government Code, is amended to read as follows:

Sec. 174.252.  JUDICIAL ENFORCEMENT WHEN PUBLIC EMPLOYER DECLINES POLICE OFFICER ARBITRATION.

SECTION 12.  Section 174.252(a), Local Government Code, is amended to read as follows:

(a)  If an association requests arbitration as provided by Subchapter E and a public employer refuses to engage in arbitration, on the application of the association, a district court for the judicial district in which a majority of affected employees reside may enforce the requirements of Section 174.021 as to any unsettled issue relating to compensation or other conditions of employment of [~~fire fighters,~~] police officers[~~, or both~~].

SECTION 13.  Section 174.253, Local Government Code, is amended to read as follows:

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

(1)  the arbitration board or arbitrator was without jurisdiction;

(2)  the arbitration board or arbitrator exceeded its jurisdiction;

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

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

(b)  The pendency of a review proceeding does not automatically stay enforcement of the arbitration board's or arbitrator's order.

SECTION 14.  This Act takes effect September 1, 2021.