

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

1
2 relating to binding interest arbitration for fire fighters in
3 certain political subdivisions.

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

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

7 (b) If an arbitration award is rendered as provided by
8 Subchapter E or Subchapter H, the public employer involved is
9 considered to be in compliance with the requirements of Section
10 174.021 as to the conditions of employment provided by the award for
11 the duration of the collective bargaining period to which the award
12 applies.

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

16 SUBCHAPTER D-1. MEDIATION

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

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

24 (b) If a mediator is used, then a mediator may be appointed

1 by agreement of the parties or by an appropriate state agency.

2 (c) A mediator may:

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

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

9 (d) A mediator may not:

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

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

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

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

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

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

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

25 (b) Not later than the 10th day after the date an agreement
26 to arbitrate is executed, the arbitrators named under Subsection
27 (a) shall attempt to select a third (neutral) arbitrator. If the

1 arbitrators are unable to agree on a third arbitrator, either party
2 may request the American Arbitration Association to select the
3 third arbitrator, and the American Arbitration Association may
4 appoint the third arbitrator according to its fair and regular
5 procedures. Unless both parties consent, the third arbitrator may
6 not be the same individual who served as a mediator under Section
7 174.131 [~~174.151~~].

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

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

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

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

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

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

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

24 SUBCHAPTER H. FIRE FIGHTER BINDING INTEREST ARBITRATION

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

1 fire department.

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

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

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

- 13 (1) reach an impasse in collective bargaining; or
14 (2) are unable to settle after the 61st day after the
15 date the appropriate lawmaking body fails to approve a contract
16 reached through collective bargaining.

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

- 20 (1) the date an impasse was reached under Section
21 174.302;
22 (2) the expiration of an extension period under
23 Section 174.302; or
24 (3) the expiration of the period described by
25 Subsection (a)(2).

26 (c) A notice under Subsection (b) is considered sent on the
27 date the notice is placed in the mail, personally delivered, or

1 transmitted by e-mail or any other means of electronic transfer.

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

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

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

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

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

22 (c) An arbitration hearing shall be informal.

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

27 (b) The arbitrator shall render an award in accordance with

1 the requirements of Section 174.021. In settling disputes relating
2 to compensation, hours, and other conditions of employment, the
3 arbitrator shall consider:

- 4 (1) hazards of employment;
- 5 (2) physical qualifications;
- 6 (3) educational qualifications;
- 7 (4) mental qualifications;
- 8 (5) job training;
- 9 (6) skills; and
- 10 (7) other factors.

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

14 (b) An arbitrator may:

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

17 (2) administer oaths; and

18 (3) issue subpoenas to require:

19 (A) the attendance and testimony of witnesses;

20 and

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

24 Sec. 174.308. ARBITRATION AWARD. (a) Not later than the
25 10th day after the end of the hearing, an arbitrator shall:

26 (1) make written findings; and

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

1 the arbitrator.

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

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

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

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

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

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

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

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

24 (1) the dispute is not moot;

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

27 (3) the arbitration award is not impaired.

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

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

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

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

10 (1) the compensation of the arbitrator; and

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

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

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

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

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

22 (a) If an association requests arbitration as provided by
23 Subchapter E and a public employer refuses to engage in
24 arbitration, on the application of the association, a district
25 court for the judicial district in which a majority of affected
26 employees reside may enforce the requirements of Section 174.021 as
27 to any unsettled issue relating to compensation or other conditions

1 of employment of [~~fire fighters,~~] police officers[~~, or both~~].

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

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

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

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

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

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

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

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