

BILL ANALYSIS

Senate Research Center
78R4993 YDB-F

S.B. 562
By: Gallegos
Intergovernmental Relations
2/26/2003
As Filed

DIGEST AND PURPOSE

Since 1947, most Texas peace officer associations have not legally been able to “meet and confer,” or reach agreements with their employers on issues concerning staffing, pay benefits, equipment, or training. “Meet and confer” practices have been successful because they are interest-based negotiations in which neither the employer nor the employee is mandated to meet or come to an agreement, unlike the argumentative process of collective bargaining. As proposed, S.B. 562 allows an association representing peace officers employed by political subdivisions of the state to “meet and confer” with the public employer concerning wage and employment conditions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 5C, Local Government Code, by adding Chapter 176, as follows:

CHAPTER 176. LOCAL CONTROL OF PEACE OFFICER EMPLOYMENT MATTERS IN CERTAIN POLITICAL SUBDIVISIONS

Sec. 176.001. **APPLICABILITY.** (a) Provides that except as provided by Subsection (b), this subchapter applies to a political subdivision of this state that employs peace officers.

(b) Provides that this subchapter does not apply to certain political subdivisions.

Sec. 176.002. **DEFINITIONS.** Defines “association,” “peace officer,” and “public employer.”

Sec. 176.003. **GENERAL PROVISIONS RELATING TO AGREEMENTS.** (a) Provides that a political subdivision may not be denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent the public employer and the association recognized as the sole and exclusive bargaining agent under Section 176.006 agree as provided by this chapter. Provides that applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the agreement.

(b) Requires an agreement under this chapter to be written.

(c) Provides that this chapter does not require a public employer or recognized association to meet and confer on any issue or reach an agreement.

(d) Authorizes a public employer and the recognized association to meet and confer only if the association does not advocate an illegal strike by public employees.

Sec. 176.004. **STRIKES PROHIBITED.** Provides that a peace officer of a political subdivision of this state may not engage in a strike or organized work stoppage against this

state or the political subdivision.

(b) Provides that a peace officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the peace officer may have as a result of the person's employment or prior employment with the political subdivision.

(c) Provides that this section 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. 176.005. **SELECTION OF BARGAINING AGENT.** Requires the public employer's chief executive officer or the chief executive officer's designee to select a group of persons to represent the public employer as its sole and exclusive bargaining agent for issues related to the employment of peace officers by the political subdivision.

Sec. 176.006. **RECOGNITION OF PEACE OFFICER ASSOCIATION.** (a) Requires the public employer, in a political subdivision that chooses to meet and confer under this chapter, to recognize an association submitting a petition for recognition signed by a majority of the peace officers employed by the political subdivision or a law enforcement agency of the political subdivision, excluding the head of the agency and the employees exempt under Subsection (b), as the sole and exclusive bargaining agent for all of the peace officers employed by the political subdivision or law enforcement agency, excluding the agency head and exempt employees.

(b) Provides that for the purposes of Subsection (a), exempt employees are the employees that the head of the law enforcement agency of the political subdivision designates as exempt in the manner prescribed by Chapter 143 or 158.

(c) Requires the public employer to recognize the association until recognition of the association is withdrawn by a majority of the peace officers eligible to sign a petition for recognition.

Sec. 176.007. **ELECTION.** Requires whether an association represents a majority of the covered peace officers to be resolved by a fair election conducted according to procedures agreeable to the parties.

(b) Authorizes either party, if the parties are unable to agree on election procedures, to request the American Arbitration Association to conduct the election and to certify the results. Provides that certification of the results of an election under this section resolves the question concerning representation.

(c) Provides that the association is liable for the expenses of the election, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the peace officers eligible to sign the petition, the association is required to share equally the costs of the election.

Sec. 176.008. **OPEN RECORDS.** (a) Provides that a proposed agreement and a document prepared and used by the political subdivision in connection with a proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ratified by the governing body of the political subdivision.

(b) Provides that this section does not affect the application of Chapter 552C, Government Code, to a document prepared and used by the political subdivision in connection with the agreement.

Sec. 176.009. **RATIFICATION AND ENFORCEABILITY OF AGREEMENT.** (a) Provides that an agreement under this chapter is enforceable and binding on the public employer, the recognized association, and the peace officers covered by the agreement only if certain conditions are met.

(b) Authorizes an agreement ratified as described by Subsection (a) to establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) Provides that a state district court of a judicial district in which the political subdivision is located has jurisdiction to hear and resolve a dispute under the ratified agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. Authorizes the court to issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Sec. 176.010. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) Provides that a written agreement ratified under this chapter 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 head of the law enforcement agency or political subdivision or by a division or agent of the political subdivision, such as a personnel board or a civil service commission.

(b) Provides that an agreement ratified under this chapter may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

SECTION 2. Effective date: September 1, 2003.