

BILL ANALYSIS

Senate Research Center
83R24413 JSC-F

S.B. 1911
By: Garcia
State Affairs
4/26/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

On April 4, the Supreme Court of Texas ruled 6-3 in *The City of Round Rock, Texas and Round Rock Fire Chief Larry Hodge v. Jaime Rodriguez and Round Rock Fire Fighters Association*, No. 10-0666, that Texas public sector workers—unlike federal public sector and private sector workers—do not have the right to representation during an internal investigation that reasonably could lead to disciplinary action.

The opinion by Justice Green (joined by Justices Johnson, Willett, Guzman, Boyd, and Devine), held that the rights granted in Section 101.001 of the Texas Labor Code are more limited than the rights granted in the National Labor Relations Act (Act), which was the statute at issue in the seminal United States Supreme Court case *NLRB v. Weingarten*. Specifically, the majority noted that the Texas Labor Code lacks a specific grant of the right to engage in "other concerted activities for . . . mutual aid or protection" which the majority reasoned was the portion of the Act on which the United States Supreme Court relied.

Chief Justice Jefferson (joined by Justices Hecht and Lehrmann) dissented and wrote the following:

For decades, private and federal employees have exercised this right, as have Texas public sector employees acting under our statute and the only existing precedent. But in Texas, after today, state and local government employees must go it alone. The Court concedes that the statute permits unionization, but precludes a prime attribute that makes the union worthwhile. Precedent does not compel this anomaly. Nor does a proper reading of the relevant law. I would hold that the statute grants Texas public employees a representation right, much as the Supreme Court of the United States has concluded under a similar federal law. Because the Court holds otherwise, I respectfully dissent.

In response to *Round Rock vs. Rodriguez*, S.B.1911 amends the Government Code to clarify that public sector workers have, among other associational rights, the right to representation during an internal investigation that could reasonably lead to disciplinary action.

As proposed, S.B. 1911 amends current law relating to the right of a public employee to representation in certain internal investigatory interviews.

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 Chapter 617, Government Code, by adding Section 617.0045, to provide that a public employee, on request, has the right to be represented by a labor organization in a disciplinary proceeding initiated against the employee by the public employer of the employee, including an investigatory interview conducted by the employer that the employee reasonably believes may result in disciplinary action.

SECTION 2. Effective date: upon passage or September 1, 2013.