

LOCAL GOVERNMENT CODE

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE A. MUNICIPAL OFFICERS AND EMPLOYEES

CHAPTER 142. ASSISTANCE, BENEFITS, AND WORKING CONDITIONS OF
MUNICIPAL OFFICERS AND EMPLOYEES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 142.001. GENERAL PROVISIONS RELATING TO HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN MUNICIPALITIES. (a) In Sections 142.0013, 142.0015, and 142.0017, "work cycle" means the period in a posted work schedule starting at the time the cycle begins and ending at the time the cycle begins to repeat itself. The cycle may span any number of days or weeks or a part of a day or week.

(b) A provision of Section 142.0013, 142.0015, or 142.0017 does not apply if it is inconsistent with a collective bargaining agreement that was in effect on August 31, 1987, and was made in accordance with The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

(c) Sections 142.0013 and 142.0015 do not prohibit the chief or head of a police department from assigning a police officer under the chief's or head's jurisdiction or supervision to work periods of uncompensated duty as prescribed by Section 143.055. A period of uncompensated duty may not be considered or otherwise taken into account in determining compliance with Section 142.0013 or 142.0015, and Section 142.0013 and Sections 142.0015(f), (g), (h), and (j) do not apply to or include periods of uncompensated duty to which a police officer is assigned.

(d) Sections 142.0013, 142.0015, and 142.0017 do not prevent a fire fighter or police officer from working extra hours when exchanging hours of work with another fire fighter or police officer with the consent of the department head.

(e) A municipal official having charge of a fire department or police department commits an offense if the official violates Section 142.0013, 142.0015, or 142.0017. An offense under this subsection is punishable by a fine of not less than \$10 or more than

\$100. Each day on which the municipal official causes or permits the section to be violated constitutes a separate offense.

Amended by Acts 1989, 71st Leg., ch. 1, Sec. 24(a), eff. Aug. 28, 1989.

Sec. 142.0013. HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN CERTAIN MUNICIPALITIES. (a) A member of a fire or police department in a municipality with a population of more than 25,000 may not, except in an emergency, be required to be on duty more than six days in a week.

(b) A member of a fire or police department in a municipality with a population of more than 30,000 is entitled to 15 vacation days each year with pay if the member has been regularly employed in the department or departments for at least one year. The municipal officials supervising the fire and police departments shall designate the days of the week during which a member of a fire department or police department is not required to be on duty and the days during which the member is allowed to be on vacation.

(c) A fire fighter shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees, at least one of which shall be designated as September 11th.

(d) A police officer shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 24(a), eff. Aug. 28, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1287 (H.B. [2113](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1287 (H.B. [2113](#)), Sec. 2, eff. September 1, 2009.

Sec. 142.0015. HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN MUNICIPALITY WITH POPULATION OF MORE THAN 10,000. (a) This section applies only in a municipality with a population of more than 10,000.

(b) A fire fighter or a member of a fire department who provides emergency medical services, other than the fire chief or the assistant chief or an equivalent classification, and who is required or permitted to work more than the number of hours that bears the same ratio to 212 hours as the number of days in the work period bears to 28 days is considered to have worked overtime. The person is entitled to be compensated for the overtime as provided by Subsection (e).

(c) A member of a fire department who does not fight fires or provide emergency medical services, including a mechanic, clerk, investigator, inspector, fire marshal, fire alarm dispatcher, and maintenance worker, other than the fire chief or the assistant chief or an equivalent classification, and who is required or permitted to average more hours in a week than the number of hours in a normal work week of the majority of the employees of the municipality other than fire fighters, emergency medical service personnel, and police officers, is considered to have worked overtime. The person is entitled to be compensated for the overtime as provided by Subsection (e).

(d) In computing the hours worked in a work week or the average number of hours worked in a work week during a work cycle of a fire fighter or other member of a fire department covered by this section, all hours are counted during which the fire fighter or other member of a fire department is required to remain on call on the employer's premises or so close to the employer's premises that the person cannot use those hours effectively for that person's own purposes. Hours in which the fire fighter or other member of a fire department is required only to leave a telephone number at which that person may be reached or to remain accessible by radio or pager are not counted. In computing the hours in a work week or the average number of hours in a work week during a work cycle of a fire fighter or a member of a fire department who provides emergency medical services, vacation, sick time, holidays, time in lieu of holidays, or compensatory time may be excluded as hours worked.

(e) A fire fighter or other member of a fire department may be required or permitted to work overtime. A fire fighter or other member of a fire department, other than the fire chief or the

assistant chief or an equivalent classification, who is required or permitted to work overtime as provided by Subsections (b) and (c) is entitled to be paid overtime for the excess hours worked without regard to the number of hours worked in any one week of the work cycle. Overtime hours are paid at a rate equal to 1-1/2 times the compensation paid to the fire fighter or member of the fire department for regular hours.

(e-1) Notwithstanding Subsection (d), in a municipality with a population of one million or more that has not adopted Chapter 143, for purposes of determining hours worked, including determining hours worked for calculation of overtime under Subsection (e), all hours are counted as hours worked during which the fire fighter or member of the fire department:

(1) is required to remain available for immediate call to duty by continuously remaining in contact with the fire department office by telephone, pager, or radio; or

(2) is taking any authorized leave, including attendance incentive leave, vacation leave, holiday leave, compensatory time off, jury duty, military leave, or leave because of a death in the family.

(f) Except as provided by Subsection (g) or (j), a police officer may not be required to work:

(1) more than 40 hours during a calendar week in a municipality that:

(A) has a population of more than one million;

(B) is not subject to Section 142.0017; and

(C) has not adopted Chapter 174; or

(2) in a municipality not described by Subdivision (1), more hours during a calendar week than the number of hours in the normal work week of the majority of the employees of the municipality other than fire fighters and police officers.

(f-1) In determining whether a police officer is considered to have been required to work overtime for purposes of Subsection (f)(1), all hours are counted during which the police officer:

(1) is required to remain available for immediate call to duty by continuously remaining in contact with a police department office by telephone or by radio;

(2) is taking any authorized leave, including attendance incentive leave, vacation leave, holiday leave, compensatory time off, jury duty, military leave, or leave because of a death in the family; and

(3) is considered to have worked under Subsection (h).

(g) In the event of an emergency, a police officer may be required to work more hours than permitted by Subsection (f). An emergency is an unexpected happening or event or an unforeseen situation or crisis that calls for immediate action and requires the chief or head of the police department to order a police officer to work overtime.

(h) An officer required to work overtime in an emergency is entitled to be compensated for the overtime at a rate equal to 1-1/2 times the compensation paid to the officer for regular hours unless the officer elects, with the approval of the governing body of the municipality, to accept compensatory time equal to 1-1/2 times the number of overtime hours. For purposes of this subsection, compensable hours of work include all hours during which a police officer is:

(1) on duty on the premises of the municipality or at a prescribed workplace or required or permitted to work for the municipality, including preshift and postshift activities that are:

(A) an integral part of the officer's principal activity; or

(B) closely related to the performance of the principal activity; and

(2) away from the premises of the municipality under conditions that are so circumscribed that the officer is restricted from effectively using the time for personal pursuits.

(i) Bona fide meal periods are not counted as hours worked. For a bona fide meal period, which does not include coffee breaks or time for snacks, a police officer must be completely relieved from duty. Ordinarily, 30 minutes or more is long enough for a bona fide meal period. A period shorter than 30 minutes may be long enough for a bona fide meal period under special conditions. A police officer is not relieved from duty if the officer is required to

perform any duties, whether active or inactive, during the meal period.

(j) If a majority of police officers working for a municipality sign a written waiver of the prohibition in Subsection (f), the municipality may adopt a work schedule for police officers requiring a police officer to work more hours than permitted by Subsection (f). The officer is entitled to overtime pay if the officer works more hours during a calendar month than the number of hours in the normal work month of the majority of the employees of the municipality other than fire fighters and police officers.

(k) For purposes of this subsection, "police dispatcher" means an operator or dispatcher employed by a municipal police department who provides communication support services for the police department by responding to requests for assistance. If a majority of police dispatchers for a municipal police department vote in favor of an alternate work schedule, the municipality may adopt an alternate work schedule for the department's dispatchers. A dispatcher working under an alternate work schedule adopted under this subsection is entitled to overtime pay if the dispatcher works more hours during a calendar month than the number of hours in the normal work month of the majority of the employees of the municipality other than fire fighters and police officers.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 24(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 756, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 80 (H.B. [1562](#)), Sec. 1, eff. May 14, 2007.

Acts 2007, 80th Leg., R.S., Ch. 229 (H.B. [1768](#)), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1269 (H.B. [1146](#)), Sec. 1, eff. June 19, 2009.

Acts 2021, 87th Leg., R.S., Ch. 796 (H.B. [792](#)), Sec. 1, eff. September 1, 2021.

Sec. 142.0016. USE OF COMPENSATORY TIME BY MEMBERS OF FIRE

AND POLICE DEPARTMENTS IN MUNICIPALITY WITH POPULATION OF MORE THAN 10,000. (a) This section applies only in a municipality with a population of less than 1.5 million that is eligible to adopt civil service under Chapter 143.

(b) A fire fighter or police officer may, with the approval of the governing body of the municipality, accept instead of overtime pay compensatory time at a rate equal to 1-1/2 times the number of overtime hours.

(c) A fire fighter or police officer may use compensatory time only when both the fire fighter or police officer and the municipality agree the time may be used.

(d) A municipality may at any time pay a fire fighter or police officer for all or part of the person's accumulated compensatory time if both the fire fighter or police officer and the municipality agree the time may be paid.

(e) If full payment for a fire fighter's or police officer's accumulated compensatory time would exceed 10 percent of the person's annual salary, the municipality may at its option defer payment of the amount in excess of 10 percent until the first pay period of the next fiscal year.

(f) A municipality shall pay for accumulated compensatory time at a rate equal to the fire fighter's or police officer's salary at the time the payment is made or at the time the payment was requested, whichever is greater.

(g) If a fire fighter or police officer dies or terminates employment for any reason, the municipality shall pay to the fire fighter or police officer or to his estate the total value of all the fire fighter's or police officer's accumulated compensatory time.

Added by Acts 1989, 71st Leg., ch. 37, Sec. 1, eff. Sept. 1, 1989.

Sec. 142.0017. HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN MUNICIPALITY WITH POPULATION OF MORE THAN 1.5 MILLION. (a) This section applies only in a municipality with a population of more than 1.5 million.

(b) A fire fighter or fire fighter emergency medical personnel may not be required or permitted to work more than an

average of 46.7 hours a week during a 72-day work cycle designated by the department head. If the fire fighter or fire fighter emergency medical services employee is required to work more than an average of 46.7 hours a week during a 72-day work cycle designated by the department head, the person is entitled to be compensated for the overtime as provided by Subsection (f).

(c) A member of a fire department who does not fight fires or provide emergency medical services, including a mechanic, clerk, investigator, inspector, fire marshal, fire alarm dispatcher, and maintenance worker, may not, except as provided by Subsection (d) or (f):

(1) average more hours in a week than the number of hours in a normal work week of the majority of the employees of the municipality other than fire fighters, fire fighter emergency medical personnel, and police officers; or

(2) be on duty for more days in a work week or average more days on duty a week in a work cycle than the number of days on duty during the work week of the majority of the employees of the municipality other than fire fighters, fire fighter emergency medical personnel, and police officers.

(d) If a majority of the members of the fire department working as fire alarm dispatchers sign a written agreement with the municipality that allows the municipality to require or permit fire alarm dispatchers to average a specified number of hours of work a week that is more than the number of hours allowed under Subsection (c) but not more than an average of 46.7 hours a week during a 72-day work cycle designated by the department head, the municipality may adopt a work schedule for the members of the fire department working as fire alarm dispatchers in accordance with the agreement. If under Subsection (f) a member of a fire department working as a fire alarm dispatcher is required to work more than the number of hours allowed under the agreement, the person is entitled to be compensated for the overtime as provided by Subsection (f). Each agreement adopted under this subsection expires as provided by the agreement, but not later than the first anniversary of the date that the agreement takes effect. Subsection (c) applies when an agreement adopted under this subsection is not in effect.

(e) In computing the hours in a work week or the average number of hours in a work week during a work cycle of a fire fighter or other member of a fire department as provided by Subsections (b)-(d), all hours are counted:

(1) during which the fire fighter or other member of the fire department is required to remain available for immediate call to duty by continuously remaining in contact with a fire department office by telephone or by radio; and

(2) that are sick time, vacation time, meal time, holidays, compensatory time, death in the family leave, or any other authorized leave.

(f) A fire fighter or other member of a fire department may be required in an emergency to work more hours in a work week or work cycle than permitted under Subsection (b), (c), or (d). The fire fighter or other member of a fire department is entitled to be paid overtime for the excess hours worked without regard to the number of hours worked in any one week of the work cycle. Overtime hours are paid at a rate equal to 1-1/2 times the compensation paid to the fire fighter or other member of the fire department for regular hours.

(g) A police officer may not, except as provided by Subsections (h) and (j), be required or permitted to work more hours during a calendar week than the number of hours in the normal work week of the majority of the employees of the municipality other than fire fighters and police officers.

(h) In the event of an emergency, a police officer may be required to work more hours than permitted by Subsection (g). An emergency is an unexpected happening or event or an unforeseen situation or crisis that calls for immediate action and requires the chief or head of the police department to order a police officer to work overtime.

(i) A police officer required to work overtime in an emergency is entitled to be compensated for the overtime at a rate equal to 1-1/2 times the compensation paid to the officer for regular hours unless the officer elects, with the approval of the governing body of the municipality, to accept compensatory time equal to 1-1/2 times the number of overtime hours. In computing the

hours in a work week or the average number of hours in a work week during a work cycle of a police officer, all hours are counted:

(1) during which the police officer is required to remain on call on the employer's premises or so close to those premises that the officer cannot use the time effectively for the officer's own purposes; and

(2) that are sick time, vacation time, meal time, holidays, compensatory time, death in the family leave, or any other authorized leave.

(j) If a majority of police officers working for a municipality sign a written waiver of the prohibition in Subsection (g), the municipality may adopt a work schedule for police officers requiring a police officer to work more hours than permitted by Subsection (g). The officer is entitled to overtime pay if the officer works more hours during a calendar month than the number of hours in the normal work month of the majority of the employees of the municipality other than fire fighters and police officers.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 24(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 1, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 782, Sec. 1, eff. June 16, 1991; Acts 1997, 75th Leg., ch. 386, Sec. 1, eff. May 28, 1997.

Sec. 142.002. TWO PLATOON FIRE SYSTEM AND HOURS OF LABOR IN CERTAIN MUNICIPALITIES. (a) A municipality that maintains an organized, paid fire department shall establish and maintain a two platoon fire system if the municipality:

(1) has a population of 100,001 to 119,999 and is in a county containing more than 900 square miles; or

(2) has a population of 265,000 or more and is in a county containing more than 1,500 square miles.

(b) An employee of a fire department in a municipality covered by Subsection (a) may not be required to be on duty more than 10 consecutive hours during the daytime or more than 14 consecutive hours during the nighttime. The employee may not be required to be on duty more than 14 hours in a period of 24 consecutive hours, except as provided by Subsection (c).

(c) The head or chief officer of a fire department or

company in a municipality covered by Subsection (a) shall arrange the working hours of the employees of the department or company so that the employees work, as nearly as practicable, an equal number of hours each month. The working hours of the two platoons may be arranged so that each works 24 hours on duty and has 24 hours off duty. The head or chief officer of the department, or an aide or assistant to the head or chief officer, may require an employee to continue on duty during an emergency for a longer period than specified by Subsection (b).

(d) A person commits an offense if the person violates this section or causes this section to be violated. An offense under this subsection is a misdemeanor and is punishable by a fine of not less than \$10 or more than \$100. Each employee required or permitted to work in violation of this section and each day the section is violated constitute a separate offense.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 142.003. HOSPITAL AND MEDICAL ASSISTANCE FOR POLICE RESERVE FORCE. (a) The governing body of a municipality may provide hospital and medical assistance to a member of the police reserve force who sustains injury in the course of performing official duties in the same manner as provided by the governing body for a full-time police officer.

(b) A police reserve officer is eligible for death benefits as provided by Chapter 615, Government Code.

(c) This section does not authorize a member of a police reserve force to become eligible for participation in a pension fund created under state statute of which a regular officer may become a member by payroll deductions or otherwise.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(33), eff. Sept. 1, 1995.

Sec. 142.004. PAYMENT OF HOSPITALIZATION COSTS FOR PEACE OFFICERS AND FIRE FIGHTERS. (a) In this section, "peace officer" means a peace officer as defined by Article 2.12, Code of Criminal Procedure.

(b) If a peace officer or fire fighter employed by a

municipality sustains an injury in the performance of the person's duties that results in permanent incapacity for work and requires constant confinement in a hospital or other institution providing medical treatment, the municipality may pay all costs of the confinement in excess of amounts that are paid under a policy of insurance or by another governmental entity.

(c) To the extent this section permits payments, the municipality is subrogated to the rights of the peace officer or fire fighter in a suit against a third party because of the injury.

(d) To receive funds under this section, a peace officer or fire fighter must furnish the governing body of the municipality:

(1) proof that the injury was sustained in the performance of the person's duties resulting in permanent incapacity for work and requiring constant confinement for medical treatment;

(2) proof of the part of the cost of confinement not paid under a policy of insurance or by another governmental entity; and

(3) any other information or evidence required by the governing body.

(e) This section does not permit payment of costs of constant confinement for medical treatment incurred before August 27, 1973.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 142.005. LIABILITY INSURANCE FOR FIRE AND POLICE DEPARTMENT OFFICERS AND EMPLOYEES DRIVING EMERGENCY VEHICLES. (a) A municipality may insure the officers and employees of its fire and police departments and other municipal employees who drive emergency vehicles against liability to third persons arising from the use and operation of a motor vehicle used as a municipal emergency medical, fire, or police vehicle in the line of duty by procuring a policy for that purpose from an insurance company authorized to do business in this state.

(b) Insurance taken out by a municipality must be on forms approved by the State Board of Insurance.

(c) A municipality may not purchase liability insurance in

excess of \$20,000 because of bodily injury to or death of one person in any one accident, \$100,000 because of bodily injury to or death of two or more persons in any one accident, and \$15,000 because of injury to or destruction of property of others in any one accident. Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 11, eff. Sept. 1, 2001.

Sec. 142.006. MOTOR VEHICLE LIABILITY INSURANCE FOR PEACE OFFICERS AND FIRE FIGHTERS. (a) This section does not apply to a municipality covered by Section 142.007.

(b) A municipality shall provide for insuring each peace officer and fire fighter in its employ against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the municipality.

(c) The liability coverage provided under this section must be in amounts not less than those required by Chapter 601, Transportation Code, to provide proof of financial responsibility.

(d) The municipality may elect to be self-insured or to reimburse the actual cost of extended automobile liability insurance endorsements obtained by a peace officer and fire fighter on an individually owned automobile liability insurance policy. The extended endorsements must:

- (1) be in the amount required by Subsection (c); and
- (2) extend the coverage to include the operation and use of vehicles by a peace officer or fire fighter in the scope of the officer's or fire fighter's employment.

(e) If the reimbursement method is used, the municipality may require that a peace officer or fire fighter who operates and uses a motor vehicle present proof that an extended coverage endorsement has been purchased and is in effect for the period of reimbursement.

(f) In this section, "motor vehicle" means any motor vehicle for which motor vehicle automobile insurance may be written under Subchapter A, Chapter 5, Insurance Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 38, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.216, eff. Sept. 1, 1997.

Sec. 142.007. MOTOR VEHICLE LIABILITY INSURANCE FOR FIRE AND POLICE DEPARTMENT OFFICERS AND EMPLOYEES IN MUNICIPALITY OF 1,550,000 OR MORE. (a) A municipality with a population of 1,550,000 or more shall insure the officers and employees of its fire and police departments against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the municipality.

(b) The municipality may elect to be self-insured or may purchase insurance from an insurance company authorized to do business in this state.

(c) Insurance purchased by the municipality must be on forms approved by the State Board of Insurance.

(d) The municipality may not purchase liability insurance in excess of \$100,000 because of bodily injury to or death of one person in any one accident, \$300,000 because of bodily injury to or death of two or more persons in any one accident, and \$10,000 because of injury to or destruction of property of others in any one accident.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 142.008. SALARY CONTINUATION PAYMENTS; SUBROGATION.

(a) If a municipality pays benefits to a municipal employee under a salary continuation program when the employee is injured, the municipality is subrogated to the employee's right of recovery for personal injuries caused by the tortious conduct of a third party other than another employee of the same municipality.

(b) The subrogation extends only to payments made by the municipality.

(c) A municipality may not deny benefits under a salary continuation program because a municipal employee has a cause of action against a third party for personal injuries.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 142.009. PAYMENT FOR APPEARANCES OF FIRE FIGHTERS AND POLICE OFFICERS IN COURT OR ADMINISTRATIVE PROCEEDINGS. (a) A municipality shall pay a fire fighter or police officer for an

appearance as a witness in a criminal suit, a civil suit, or an administrative proceeding in which the municipality or other political subdivision or government agency is a party in interest if the appearance:

(1) is required;

(2) is made on time off; and

(3) is made by the fire fighter or police officer in the capacity of a fire fighter or police officer.

(b) Payment under this section is at the fire fighter's or police officer's regular rate of pay.

(c) Payment under this section may be taxed as court costs in civil suits.

(d) This section does not reduce or prohibit compensation paid in excess of the regular rate of pay.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 412 (H.B. 1960), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 412 (H.B. 1960), Sec. 2, eff. June 19, 2009.

Sec. 142.010. DEFINITIONS. (a) In this chapter, "member of the fire department" means an employee of the fire department who is defined as "fire protection personnel" by Section 419.021, Government Code.

(b) In this chapter, "member of the police department" means an employee of the police department who has been licensed as a peace officer by the Commission on Law Enforcement Standards and Education.

Added by Acts 1989, 71st Leg., ch. 92, Sec. 2, eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.1032, eff. Sept. 1, 2001.

Sec. 142.011. EDUCATIONAL LEAVE. (a) On written application by a member of the police department, a municipality may grant the person a leave of absence to enable the person to enroll full-time in college to pursue a course of study related to

law enforcement or public safety.

(b) The person is entitled to continue receiving employee benefits, including health and life insurance and accumulation of retirement credit, while on leave under Subsection (a) if the person pays both the person's and the municipality's share of the cost of the benefits.

(c) On reinstatement, the person shall receive full seniority credit for the time spent on leave under Subsection (a).
Added by Acts 1993, 73rd Leg., ch. 853, Sec. 1, eff. Sept. 1, 1993.

Sec. 142.012. OVERTIME COMPENSATION FOR CERTAIN POLICE DEPARTMENT OFFICERS AND CIVILIAN EMPLOYEES. (a) This section applies only to a municipality with a population of one million or more that has not adopted Chapter 143.

(b) Subject to the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), a municipality may but is not required to establish a system under which compensation is paid or compensatory time off is allowed for overtime worked by the following officers and employees of the municipality's police department:

(1) a police officer who has a rank above the rank of captain and whose appointment to the officer's current rank was not based at least in part on the officer's performance on a competitive examination; or

(2) a civilian who receives a salary greater than the lowest base salary that the municipality pays a captain and whose appointment to the civilian's current position was not based at least in part on the civilian's performance on a competitive examination.

Added by Acts 2001, 77th Leg., ch. 928, Sec. 1, eff. Sept. 1, 2001.

Sec. 142.013. BUSINESS LEAVE TIME ACCOUNT FOR POLICE OFFICERS IN CERTAIN MUNICIPALITIES. (a) This section applies only to police officers employed by a municipality with a population of one million or more that has not adopted Chapter 174 and to which Section 143.1261 does not apply.

(b) In this section:

(1) "Business leave" means leave taken for the purpose of attending to the business of an employee organization.

(2) "Employee organization" includes:

- (A) the Texas Peace Officers Association;
- (B) the Dallas Police Association;
- (C) the Dallas Fraternal Order of Police;
- (D) the Latino Peace Officers Association; and
- (E) the Black Police Association of Greater Dallas.

(c) If the constitution and bylaws of an employee organization authorize the employee organization to participate in the establishment and maintenance of a business leave time account as provided by this section, a police officer may donate not more than two hours for each month of accumulated vacation or compensatory time to the business leave time account of the employee organization. The municipality shall establish and maintain a business leave time account for each employee organization.

(d) Donations to the business leave time account of an employee organization by its members may be authorized in one of the following ways:

(1) if the majority of the membership of the employee organization has not affirmatively voted to require contributions by the employee organization's members to its business leave time account:

(A) a police officer must authorize the donation in writing on a form provided by the employee organization and approved by the municipality; and

(B) after receiving the signed authorization on an approved form, the municipality shall transfer donated time to the account monthly until the municipality receives the police officer's written revocation of the authorization; or

(2) if the majority of the membership of the employee organization has affirmatively voted to require contributions by the employee organization's members to its business leave time account:

(A) except as provided by Paragraph (C), the

municipality shall transfer donated time to the employee organization's business leave time account from the accumulated vacation or compensatory time of each police officer who is a member of the employee organization in the amount approved by vote of the employee organization not to exceed the amount allowed under Subsection (c);

(B) the municipality shall transfer the donated time to the account monthly beginning with the first calendar month that begins after the date of the employee organization vote requiring contributions; and

(C) each year, during the period beginning on the 60th day before the anniversary of the first day of the first calendar month in which donations were first transferred to the business leave time account of the employee organization under Paragraph (B) and ending on the 30th day before that anniversary, a police officer who is a member of the employee organization may inform the municipality in writing on a form provided by the employee organization and approved by the municipality that the police officer chooses to not donate time to the account during the 12-month period beginning with that anniversary.

(e) Only a police officer who is a member of an employee organization may use for business leave purposes the time donated to the account of that employee organization. A police officer may use for business leave purposes the time donated under this section without receiving a reduction in salary and without reimbursing the municipality.

(f) A request to use for business leave purposes the time in an employee organization's time account must be in writing and submitted to the municipality by the president or the equivalent officer of the employee organization or by that officer's designee.

(g) The municipality shall grant a request for business leave that complies with Subsection (f) unless:

(1) denial of the request is necessary because of an emergency; or

(2) a grant of the request will result in having an insufficient number of police officers to carry out the normal functions of the municipality.

(h) The municipality shall account for the time donated to the account and used from the account. The municipality shall credit and debit the account on an hour-for-hour basis regardless of the cash value of the time donated or used.

(i) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1011, Sec. 2, eff. September 1, 2013.

(j) The use of business leave by a police officer under this section is not a break in service for any purpose and is treated as any other paid leave.

Added by Acts 2003, 78th Leg., ch. 447, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 734 (H.B. 1057), Sec. 2, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1011 (H.B. 2509), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1011 (H.B. 2509), Sec. 2, eff. September 1, 2013.

Sec. 142.014. BUSINESS LEAVE TIME ACCOUNT FOR FIREFIGHTERS IN CERTAIN MUNICIPALITIES. (a) This section applies only to firefighters employed by a municipality with a population of one million or more that has not adopted Chapter 174 and to which Chapter 143 does not apply.

(b) In this section:

(1) "Business leave" means leave taken for the purpose of attending to the business of an employee organization.

(2) "Employee organization" includes:

(A) the Dallas Fire Fighters Association;

(B) the Dallas Black Fire Fighters Association;

and

(C) the Dallas Hispanic Firefighters Association.

(c) If the constitution and bylaws of an employee organization authorize the employee organization to participate in the establishment and maintenance of a business leave time account as provided by this section, a firefighter who is a member of an employee organization may donate not more than one

hour of accumulated vacation or compensatory time for each calendar quarter to the business leave time account of the employee organization to which the firefighter belongs. The municipality shall establish and maintain a separate business leave time account for each employee organization that has approved or ratified the use of business leave time by its members under this section and has a specific provision in the constitution and bylaws of that employee organization.

(d) Only a firefighter who is a member of an employee organization may use for business leave purposes the time donated to the account of the employee organization. A firefighter may use for business leave purposes the time donated under this section without receiving a reduction in salary and without reimbursing the municipality.

(e) A request to use for business leave purposes the time in an employee organization's time account must be in writing and be submitted to the municipality by the president or the equivalent officer of the employee organization or by that officer's designee.

(f) The municipality shall grant a request for business leave that complies with Subsection (e) unless:

(1) denial of the request is necessary because of an emergency; or

(2) a grant of the request will result in having an insufficient number of firefighters to carry out the normal functions of the municipality.

(g) The municipality shall account for the time donated to each account and used from each account. The municipality shall credit and debit an account on an hour-for-hour basis regardless of the cash value of the time donated or used.

(h) An employee organization may not use for business leave purposes more than 4,000 hours from its business leave time account under this section in a calendar year unless the municipality approves the use of hours in excess of 4,000. This subsection does not prevent an employee organization from accumulating more than 4,000 hours, but only addresses the total number of donated hours that an employee organization may use in any calendar year.

(i) The use of business leave by a firefighter under this

section is not a break in service for any purpose and is treated as any other paid leave.

Added by Acts 2011, 82nd Leg., R.S., Ch. 734 (H.B. 1057), Sec. 1, eff. June 17, 2011.

SUBCHAPTER B. LOCAL CONTROL OF POLICE OFFICER EMPLOYMENT MATTERS
IN CERTAIN MUNICIPALITIES

Sec. 142.051. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies only to:

(1) a municipality, and a police officer in a municipality, with a population of 50,000 or more;

(2) a municipality, and a police officer in a municipality, that has adopted Chapter 143; or

(3) a police officer not covered by a collective bargaining agreement adopted under Chapter 174 in a municipality that has adopted Chapter 174 for police officers in the police department, and the municipality that appoints or employs such a police officer.

(b) This subchapter does not apply to:

(1) a police officer who is covered by a collective bargaining agreement adopted under Chapter 174;

(2) a police officer who is covered by an agreement adopted under Subchapter H, I, or J, Chapter 143;

(3) a municipality that has a population of one million or more and has not adopted Chapter 143; or

(4) a municipality that has adopted Subchapter I, Chapter 143, in an election authorized by Section 143.3015.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1305 (S.B. 772), Sec. 1, eff. September 1, 2007.

Sec. 142.052. DEFINITIONS. In this subchapter:

(1) "Police officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure, or other

law, and who is employed by a municipality.

(2) "Police officers association" means an employee organization in which police officers employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting police officers.

(3) "Public employer" means a municipality or a law enforcement agency of the municipality that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of police officers employed by the municipality.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.053. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from a police officers association a petition signed by the majority of all police officers, excluding the head of the law enforcement agency for the municipality and excluding the employees exempt under Section 142.058(b), that requests recognition of the association as the sole and exclusive bargaining agent for all the police officers employed by the municipality, excluding the head of the law enforcement agency for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.055;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.055 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 142.054 to determine whether the association represents a majority

of the affected police officers.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected police officers of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.055; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.055 regarding whether a public employer may meet and confer under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.054. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 142.053(a)(3) to determine whether a police officers association represents a majority of the covered police officers shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the police officers eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of

the election.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.055. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 142.053 may order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal police officers as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.053 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.056. CHANGE OR MODIFICATION OF RECOGNITION. (a)

The police officers may modify or change the recognition of the association granted under this subchapter by filing with the governing body of the municipality a petition signed by a majority of all covered police officers.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the petition; or

(2) order a certification election in accordance with Section [142.054](#) regarding whether to do so.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. [304](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.057. STRIKES PROHIBITED. (a) A police officer employed by a municipality may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A police officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the police officer may have as a result of the officer's employment or prior employment with the municipality.

(c) 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.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. [304](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.058. RECOGNITION OF POLICE OFFICERS ASSOCIATION.

(a) A public employer in a municipality that chooses to meet and confer under this subchapter shall recognize an association that is recognized under Section [142.053](#) or [142.054](#) as the sole and exclusive bargaining agent for the covered police officers described in the petition for recognition, excluding the head of the law enforcement agency and excluding the employees exempt under Subsection (b), in accordance with this subchapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are the employees appointed by the head of the law enforcement agency of the municipality under Section [143.014](#) or that are exempt by the

mutual agreement of the recognized police officers association and the public employer.

(c) The public employer shall recognize the police officers association until recognition of the association is withdrawn, in accordance with Section 142.056, by a majority of the police officers eligible to sign a petition for recognition.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.059. GENERAL PROVISIONS RELATING TO AGREEMENTS.

(a) A municipality acting under this subchapter 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 police officers association recognized as the sole and exclusive bargaining agent under this subchapter agree as provided by this subchapter, if the agreement is ratified and not withdrawn in accordance with this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the meet and confer agreement.

(b) A meet and confer agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a recognized police officers association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized police officers association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) While a meet and confer agreement under this subchapter between the public employer and the recognized police officers association is in effect, the public employer may not accept a petition, with regard to the police officers of the municipality requesting an election to adopt:

(1) municipal civil service under Chapter 143; or

(2) collective bargaining under Chapter 174.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.060. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of police officers by the municipality.

(b) A police officers association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the police officers of the municipality who are not the head of the law enforcement agency or exempt under Section 142.058(b).

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.061. PROTECTED RIGHTS OF POLICE OFFICER. (a) For any disciplinary appeal, a member of the municipality's bargaining unit may be represented by the police officers association or by any person the member selects.

(b) A meet and confer agreement ratified under this subchapter 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 Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.062. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared

and used in connection with the agreement.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.063. OPEN DELIBERATIONS. (a) Deliberations relating to a meet and confer agreement or proposed agreement under this subchapter between representatives of the public employer and representatives of the police officers association elected by a majority vote of the officers to be the sole and exclusive bargaining agent of the covered officers must be open to the public and comply with state law.

(b) Subsection (a) may not be construed to prohibit the representatives of the public employer or the representatives of the police officers association from conducting private caucuses that are not open to the public during meet and confer negotiations. Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.064. RATIFICATION AND ENFORCEABILITY OF AGREEMENT.

(a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized police officers association, and the police officers covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized police officers association ratified the agreement by conducting a secret ballot election at which the majority of the police officers who would be covered by the agreement favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may 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) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer 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. The court may 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. Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.065. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of a police officers association under Section 142.053 without conducting an election under Section 142.055 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of a police officers association after conducting an election under Section 142.055 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.055.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to continue to operate under the state law allowing a municipality

to meet and confer and make agreements with the association representing municipal police officers as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.053 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.066. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized police officers association, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the

_____ (name of the governing body of the municipality) and the police officers employed by the City of _____ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. A written meet and confer agreement ratified under this subchapter 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 municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

Sec. 142.068. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a) This subchapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning police officers' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments, except as expressly provided in a ratified meet and confer agreement. This subchapter is in addition to the benefits provided by existing statutes and ordinances.

(b) This subchapter may not be construed to interfere with a police officer's constitutionally protected rights of freedom of speech, freedom of association, and freedom to endorse or dissent from any agreement.

Added by Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 2, eff. September 1, 2005.

SUBCHAPTER C. LOCAL CONTROL OF FIREFIGHTER EMPLOYMENT

MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.101. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies only to a municipality:

- (1) with a population of 50,000 or more; or
- (2) that has adopted Chapter 143.

(b) This subchapter does not apply to a municipality that:

- (1) has adopted Chapter 174;
- (2) is covered by Subchapter H, I, or J, Chapter 143;

or

(3) has a population of one million or more and has not adopted Chapter 143.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.102. DEFINITIONS. In this subchapter:

(1) "Firefighter" means a person who is defined as fire protection personnel under Section 419.021, Government Code, and who is employed by a municipality.

(2) "Firefighters association" means an employee organization in which firefighters employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting firefighters.

(3) "Public employer" means a municipality or the fire department of the municipality that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of firefighters employed by the municipality.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.103. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from a firefighters association a petition signed by the majority of all firefighters,

excluding the head of the fire department for the municipality and excluding the employees exempt under Section 142.108(b), that requests recognition of the association as the sole and exclusive bargaining agent for all the firefighters employed by the municipality, excluding the head of the fire department for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and determine by majority vote regarding whether a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.105;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.105 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 142.104 to determine whether the association represents a majority of the affected firefighters.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected firefighters of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.105; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.105 regarding whether a public employer may meet and confer under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.104. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 142.103(a)(3) to determine whether a firefighters association represents a majority of the covered firefighters shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the firefighters eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election. Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.105. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 142.103 may order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and

providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.103 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.106. CHANGE OR MODIFICATION OF RECOGNITION. (a) The firefighters may modify or change the recognition of the association granted under this subchapter by filing with the governing body of the municipality a petition signed by a majority of all covered firefighters.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the petition; or

(2) order a certification election in accordance with Section 142.104 regarding whether to do so.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.107. STRIKES PROHIBITED. (a) A firefighter employed by a municipality may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A firefighter who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the firefighter may have as a result of the person's employment or prior employment with the municipality.

(c) 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.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.108. RECOGNITION OF FIREFIGHTERS ASSOCIATION. (a) A public employer in a municipality that chooses to meet and confer under this subchapter shall recognize an association that is recognized under Section 142.103 or 142.104 as the sole and exclusive bargaining agent for the covered firefighters described in the petition for recognition, excluding the head of the fire department and excluding the employees exempt under Subsection (b), in accordance with this subchapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are the employees appointed by the head of the fire department of the municipality under Section 143.014 or that are exempt by the mutual agreement of the recognized firefighters association and the public employer.

(c) The public employer shall recognize the firefighters association until recognition of the association is withdrawn, in accordance with Section 142.106, by a majority of the firefighters eligible to sign a petition for recognition.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.109. GENERAL PROVISIONS RELATING TO AGREEMENTS.

(a) A municipality acting under this subchapter 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 firefighters association recognized as the sole and exclusive bargaining agent under this subchapter agree as provided by this subchapter, if the agreement is ratified and not withdrawn in accordance with this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the meet and confer agreement.

(b) A meet and confer agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a

recognized firefighters association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized firefighters association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) While a meet and confer agreement under this subchapter between the public employer and the recognized firefighters association is in effect, the public employer may not accept a petition, with regard to the firefighters of the municipality requesting an election to adopt:

(1) municipal civil service under Chapter 143; or

(2) collective bargaining under Chapter 174.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.110. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of firefighters by the municipality.

(b) A firefighters association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the firefighters of the municipality who are not the head of the fire department or exempt under Section 142.108(b).

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.111. PROTECTED RIGHTS OF FIREFIGHTER. (a) For any disciplinary appeal, a member of the municipality's bargaining unit may be represented by the firefighters association or by any person the member selects.

(b) A meet and confer agreement ratified under this subchapter 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 Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.112. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.113. OPEN DELIBERATIONS. (a) A deliberation relating to meeting and conferring between a public employer and a firefighters association, a deliberation relating to an agreement or proposed agreement under this subchapter by a quorum of a firefighters association authorized to meet and confer, or a deliberation by a quorum of the sole and exclusive bargaining agent of the public employer authorized to meet and confer must be open to the public and comply with state law.

(b) Subsection (a) may not be construed to prohibit the representative of the public employer or the representatives of the firefighters association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.114. RATIFICATION AND ENFORCEABILITY OF AGREEMENT.

(a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized firefighters association,

and the firefighters covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized firefighters association ratified the agreement by conducting a secret ballot election at which only the firefighters of the municipality in the association were eligible to vote, and a majority of the votes cast at the election favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may 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) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer 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. The court may 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.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.115. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of a firefighters association under Section 142.103 without conducting an election under Section 142.105 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of a firefighters association after conducting an election under Section 142.105 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.105.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.103 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.116. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the

recognized firefighters association, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the _____ (name of the governing body of the municipality) and the firefighters employed by the City of _____ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.117. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. A written meet and confer agreement ratified under this subchapter 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 fire department or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.118. PREEMPTION OF OTHER LAW. (a) This subchapter

preempts all contrary local ordinances, executive orders, legislation, or rules adopted by a municipality.

(b) Section 617.002, Government Code, does not apply to an agreement made or an action taken under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.119. EFFECT ON EXISTING BENEFITS. This subchapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning firefighters' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments, except as expressly provided in a ratified meet and confer agreement. This subchapter is in addition to the benefits provided by existing statutes and ordinances.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

SUBCHAPTER D. LOCAL CONTROL OF EMERGENCY MEDICAL SERVICES PERSONNEL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.151. APPLICABILITY. This subchapter applies only to a municipality:

(1) with a population of 460,000 or more that operates under a city manager form of government; and

(2) that employs emergency medical services personnel in a municipal department other than the fire department.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.152. DEFINITIONS. In this subchapter:

(1) "Association" means an organization in which emergency medical services personnel participate and that exists for the purpose, wholly or partly, of dealing with one or more public or private employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment affecting public employees.

(2) "Emergency medical services personnel" has the

meaning assigned by Section 773.003, Health and Safety Code. The term applies only to an individual certified under Chapter 773, Health and Safety Code.

(3) "Public employer" means a municipality or an agency, board, commission, or political subdivision controlled by a municipality that is required to establish the wages, salaries, rates of pay, hours of employment, working conditions, and other terms and conditions of employment of public employees. The term, under appropriate circumstances, may include a mayor, manager, municipal administrator, municipal governing body, director of personnel, personnel board, or one or more other officials, regardless of the name by which an official is designated.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.153. GENERAL PROVISIONS RELATING TO AGREEMENTS.

(a) A municipality may not be denied local control over wages, salaries, rates of pay, hours of employment, other terms and conditions of employment, or other personnel issues on which the public employer and an association that is recognized as the sole and exclusive bargaining agent under Section 142.155 for all emergency medical services personnel in the municipality agree. The applicable statutes, local ordinances, and civil service rules govern a term or condition of employment on which the public employer and the association do not agree.

(b) An agreement under this subchapter must be written.

(c) This subchapter does not require the public employer and an association to meet and confer or reach an agreement on any issue.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.154. STRIKES PROHIBITED. (a) A public employer and an association recognized as the sole and exclusive bargaining agent under Section 142.155 may meet and confer only if the association does not advocate the illegal right to strike by public employees.

(b) Emergency medical services personnel of a municipality may not engage in a strike or organized work stoppage against this state or a political subdivision of this state.

(c) Emergency medical services personnel who participate in a strike forfeit all civil service rights, reemployment rights, and other rights, benefits, or privileges enjoyed as a result of employment or previous employment with the municipality.

(d) This section does not affect the right of a person to cease employment if the person is not acting in concert with other emergency medical services personnel.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.155. RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL ASSOCIATION. (a) The governing body of a municipality may recognize an association that submits a petition signed by a majority of the emergency medical services personnel in the municipality, excluding the head of the emergency medical services department and any person who is exempt under Subsection (b), as the sole and exclusive bargaining agent for all of the covered emergency medical services personnel until recognition of the association is withdrawn by a majority of the covered emergency medical services personnel.

(b) For purposes of Subsection (a), exempt employees are assistant department heads in the rank or classification immediately below that of the department head and any other employees who are designated as exempt or whose job titles are designated as exempt by the mutual agreement of the recognized association and the public employer.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.003, eff. September 1, 2009.

Sec. 142.156. ELECTION. (a) Whether an association represents a majority of the covered emergency medical services

personnel shall be resolved by a fair election, conducted according to procedures agreed on by the parties, at which only a person eligible to sign a petition under Section 142.155 may vote.

(b) If the parties are unable to agree on election procedures under Subsection (a), a party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election under this subsection resolves the question concerning representation.

(c) The association shall pay the costs of an election under this section, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the covered emergency medical services personnel, the associations shall share equally the costs of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.1565. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) If the governing body of a municipality does not recognize an association that submits a petition under Section 142.155 and that has been determined by the governing body or under Section 142.156 to represent a majority of the covered emergency medical services personnel, the governing body shall order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal emergency medical services personnel as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work

stoppages."

(d) An election ordered under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.155 before the second anniversary of the date of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.157. SELECTION OF BARGAINING AGENTS. The public employer's manager or chief executive, as appropriate, and the head of the emergency medical services department shall designate a group of persons to represent the public employer as its sole and exclusive bargaining agent.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.158. OPEN RECORDS REQUIRED. (a) A proposed agreement and any document prepared and used by the municipality in connection with a proposed agreement are available to the public under the public information law, Chapter 552, Government Code, only after the agreement is ratified by the municipality's governing body.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used by the municipality in connection with the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.159. RATIFICATION AND ENFORCEABILITY OF AGREEMENT.

(a) An agreement made under this subchapter between a public

employer and an association is binding on the public employer, the association, and the emergency medical services personnel covered by the agreement if:

(1) the municipality's governing body ratifies the agreement by a majority vote; and

(2) the association recognized under Section [142.155](#) ratifies the agreement by a majority vote of its members voting in an election by secret ballot at which only members of the association who are eligible to sign a petition under Section [142.155](#) may vote.

(b) An agreement ratified as described by Subsection (a) may 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 interpretation of the agreement.

(c) The state district court of the judicial district in which the municipality 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 act or omission of the other party. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including a contempt order, that is appropriate to enforce the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. [1104](#)), Sec. 1, eff. May 23, 2007.

Sec. 142.160. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

(a) An agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of employment, or other terms and conditions of employment to the extent of any conflict with the statute.

(b) An agreement under this subchapter preempts any contrary executive order, local ordinance, or rule adopted by this state or a political subdivision or agent of this state, including a personnel board, a civil service commission, or a municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this

chapter or other law unless approved by a majority vote by secret ballot of the members of the association recognized under Section 142.155 at which only members of the association who are eligible to sign a petition under Section 142.155 may vote.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.1605. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of an association under Section 142.155 without conducting an election under Section 142.1565 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of an association after conducting an election under Section 142.1565 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.1565.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal emergency medical services personnel as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes

and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.155 before the second anniversary of the date of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.161. REPEAL OF AGREEMENT BY ELECTORATE. (a) Not later than the 45th day after the date an agreement is ratified by both the municipality and the association, a petition signed by at least 10 percent of the qualified voters of the municipality may be presented to the municipal secretary calling for an election to repeal the agreement.

(b) On receipt by the municipal secretary of a petition described by Subsection (a), the governing body of the municipality shall reconsider the agreement and either repeal the agreement or call an election of the qualified voters of the municipality to determine if the voters favor repealing the agreement. The election shall be called for the next election held in the municipality that allows sufficient time to comply with applicable provisions of law or at a special election called by the governing body for that purpose.

(c) If at the election a majority of the votes cast favor repeal of the adoption of the agreement, the agreement is void.

(d) The ballot for an election under this section shall be printed to permit voting for or against the proposition: "Repeal of the adoption of the agreement ratified by the municipality and the emergency medical services personnel association concerning wages, salaries, rates of pay, hours of employment, and other terms and conditions of employment."

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.162. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES.

(a) For the purpose of any disciplinary appeal, a member of the association may choose to be represented by any person of the member's choice or by the association.

(b) An agreement may not interfere with the right of a member of the association to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the civil rights division of the Texas Workforce Commission or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.

Sec. 142.163. BINDING INTEREST ARBITRATION. (a) A

municipality may be required to submit to binding interest arbitration only if approved by a majority of those voting in a public referendum conducted in accordance with the municipality's charter.

(b) Subsection (a) does not affect any disciplinary arbitration or arbitration provision in a ratified agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 187 (S.B. 1104), Sec. 1, eff. May 23, 2007.