

# **TEMPLATE FOR A SUCCESSFUL CONTRACT**

## **Primer On Collective Bargaining**

**TxPELRA Annual Workshop**

**February 1, 2017**

**Ricardo J. Navarro**

**Denton, Navarro, Rocha & Bernal**

**Hyde, & Zech, P.C.**

**Rio Grande Valley Office**

**701 E. Harrison Ste. 100**

**Harlingen, Texas 78550**

---

**[rjnavarro@rampage-rgv.com](mailto:rjnavarro@rampage-rgv.com)**

**[www.rampagelaw.com](http://www.rampagelaw.com)**

# Template for a Successful Contract

---

## Points to be Covered in this Presentation:

- 1. Understanding the underlying legal requirements and objectives that must be achieved;**
- 2. Researching the specific issues to be addressed and devising a plan for the negotiations; and,**
- 3. Reviewing specific Articles for discussion purposes.**

# **What Is a Labor Agreement or Meet and Confer Agreement?**

---

**A labor agreement or a meet and confer agreement is a statutorily authorized, and mandated, written agreement that addresses the subject matter areas specified in the authorizing statute.**

# **What Statute Applies?**

---

**The authorizing statute for collective bargaining is titled the Fire and Police Employee Relations Act.**

**It is codified as Chapter 174, Texas Local Gov't Code**

**The authorizing statute for meet and confer is codified in Chapter 142, Texas Local Gov't Code**

**Subchapter B for Police Officers; and,**

**Subchapter C for Fire Fighters**

# What Does Chapter 174 Require?

---

**Sec. 174.021. PREVAILING WAGE AND WORKING CONDITIONS REQUIRED.** A political subdivision that employs fire fighters, police officers, or both, shall provide those employees with compensation and other conditions of employment that are:

(1) substantially equal to compensation and other conditions of employment that prevail in comparable employment in the private sector; and

(2) based on prevailing private sector compensation and conditions of employment in the labor market area in other jobs that require the same or similar skills, ability, and training and may be performed under the same or similar conditions.

# **What Does Chapter 142 Require?**

---

## **Sec. 142.052. DEFINITIONS [FOR POLICE]**

**(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**

## **Sec. 142.102. DEFINITIONS [FOR FIRE FIGHTERS]**

**(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**

# What Else Do I Need to Know?

---

**You need to know as well your own internal law, policies, and procedures. These include, but are not limited to things such as:**

- **City Charter and any applicable provisions that may relate to the employer-employee relationship**
- **City Ordinances and Resolutions that bear on employee pay, benefits, and conditions of employment**
- **City Policies, General Orders, Directive, and Practices, that bear on personnel management and departmental operations**
- **Working knowledge of state and federal employment and labor law**

# Practical Application of the Negotiation Process?

---

**The three main categories for negotiation:**

- 1. Compensation; otherwise referred to as wages and salary, and including supplemental pays;**
- 2. Paid Time Off Benefits; such as holiday pay; vacation leave, sick leave; bereavement leave, etc.**
- 3. Other Benefits; such as insurance coverage, retirement, tools and equipment, etc.**



# What Qualifies as Compensation?

---

## **Civil Service Law Typically – 143.041, TLGC:**

**Base Pay based on ranks**

**Longevity Or Seniority Pay**

**Education Pay**

**Assignment Pay**

**Certification Pay**

**Shift Differential Pay**

**Fitness Incentive Pay**

**Field Officer Training Pay**

**Step Up Pay (not the same as assignment pay)**

**Other categories negotiated in bargaining process**

# **Categories of Paid Time Off**

---

## **Civil Service Law Categories:**

**Sick Leave**

**Vacation Leave**

**Holidays (& Holiday Pay Premium)**

**Health Care Benefits**

**Retirement Benefits**

# What Else Comprises Conditions of Employment?

---

**Depends on your role? But generally, it would include things such as:**

**Hours of work**

**Overtime policy**

**Time in grade requirements**

**Staffing and minimum manning**

**Transfers and shift exchanges**

**Misconduct investigations and disciplinary policy and practice**

**Personnel file management; departmental and civil service**

# Are Those the Only Things That Can Be Bargained?

---

**Not necessarily. But most other bargaining articles are usually motivated by a mutuality of interests, such as:**

- **Minimum qualifications of applicants**
- **Management of certified lists**
- **Appointments of management level ranks**
- **Lateral hires from other departments**
- **Other changes to process and procedure in Chapters 141, 142, and 143, TLGC that the parties both want modified.**

# Be Aware of the Authority to Change the Underlying Statute: Chap 174

---

## Sec. 174.006. EFFECT ON CIVIL SERVICE PROVISIONS.

(a) A state or local civil service provision prevails over a collective bargaining contract under this chapter unless the collective bargaining contract specifically provides otherwise.

(b) A civil service provision may not be repealed or modified by arbitration or judicial action but may be interpreted or enforced by an arbitrator or court.

(c) This chapter does not limit the authority of a municipal fire chief or police chief under Chapter [143](#) except as modified by the parties through collective bargaining

# **Be Aware of the Authority to Change the Underlying Statute: Chap 142, TLGC**

---

**Sec. 142.067 (Law Enforcement) and Sec. 142.117 (Fire Fighters)**

**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**

# Procedural Steps: The First Meeting

---

## Formalities

- **Circulate and attendance roster for all persons who are going to be at the table.**
- **Introduce individuals and identify roles on the respective teams**
- **Ground rules should be first order of business**
- **Scheduling of meetings**
- **Exploration of issues**

# **Ground Rules? Why Use Them?**

---

- ▶ **Ground Rules are not required. But they are a good practice.**
- ▶ **Ground Rules are largely procedural, but they represent your first level of reaching an agreement on preliminary issues.**
- ▶ **Ground Rules also give you a baseline to evaluate who is going to honorably abide by them and who is not, which is important information to know.**



# What Things Should Grounds Rules Cover?

---

## **See Model Grounds Rules. Things such as:**

- **Identity of the parties**
- **Authority of Chief Negotiators**
- **Bargaining time off for Union Members**
- **Scheduling of Meetings**
- **Handling Media Inquiries**
- **Ex-parte contacts w/ elected officials**
- **Handling of TA's (tentative agreements)**
- **Impasse Deadlines**

# What is a TA?

---

**A TA is a tentative agreement.**

**It is a signed, approved, provision tentatively agreed to by the bargaining team as a method for resolving and clearing issues off of the table.**

**The TA process is one way to measure headway, and to determine when a complete agreement is ready for submission to each party for a final binding vote.**

# What Is Labor Negotiations Not?

---

## What Labor Negotiations Is Not:

- **It is not a kumbayah session; but be aware of IBB as an approach to negotiations**
- **It is not litigation and should not be approached as litigation; although litigation risk management is something always consider**
- **It is not necessarily adversarial, even though the potential is always present**
- **It is not personal; or shouldn't be at least**

# What Is It Then?

---

## **What Labor Negotiations Is:**

- **It's usually about submitting a budget, except that now you have to look the employees in the face when you say no to compensation demands**
- **It's about getting buy-in from the labor association into the terms and conditions for pay, benefits, and operations**
- **It's about diplomacy within the corporate organization**
- **It's about recognizing that at the end of the day everyone involved has to live and work with each other**

# Thank You.

---

**Let's review specific Articles  
and apply what we  
discussed so far.....**