

## **BILL ANALYSIS**

C.S.H.B. 1643  
By: Bailey  
Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Since 1947, except in certain cases specifically authorized by the Texas Legislature, Texas peace officer associations have not legally been able to “meet and confer,” or reach agreements with their employers on issues concerning staffing, pay, benefits, equipment, or training. “Meet and confer” practices have been successful because they are interest-based negotiations in which neither the employer nor the employee is mandated to meet or come to an agreement, unlike collective bargaining. “Meet and confer” rights have been granted by the legislature to the Houston Fire Department (1993), Austin Police and Fire Departments (1995), the Houston Police Department (1997), and the Houston Metropolitan Transit Authority Police Department (2001). Committee Substitute House Bill 1643 would allow for an association representing peace officers employed by political subdivisions of the state (municipalities and counties) to “meet and confer” with the public employer concerning wage and employment conditions. There is no requirement that either party participate in the “meet and confer” process, but affords the opportunity for discussions and adoption of a written agreement if both the employer and peace officer officers association agree to do so. C.S.H.B. 1643 reiterates that peace officers are prohibited from striking.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Subtitle A, Title 5, Local Government Code, is amended by adding Chapter 145 to read as follows:

#### **CHAPTER 145. LOCAL CONTROL OF PEACE OFFICER EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES**

Sec. 145.001. **APPLICABILITY.** (a) Except as provided by Subsection (b), this section applies only to municipalities of the state that has a population of 10,000 or more and has adopted Chapter 143.

(b) states that this chapter does not apply to a municipality that has adopted Chapter 174 or that is covered by Subchapter H, I, or J, Chapter 143.

Sec. 145.002. **DEFINITIONS.** "Peace officer", "Public officer’s bargaining committee" and “Public employer” are defined.

Sec. 145.003. **STRIKES PROHIBITED.** Provides that a peace officer of a municipality may not engage in a strike or organized work stoppage against the state or the municipality. Further provides that a peace officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the peace officer may have as a result of the person's employment or prior employment with the political subdivision. The right to cease work if the person is not acting in concert with others in an organized work stoppage is not affected by this section.

Sec. 145.004. **MANDATORY PROVISIONS RELATED TO AGREEMENTS.** States that

an agreement ratified in accordance with this chapter shall include:

(1) a process that provides for the review and oversight of the law enforcement agency and peace officers employed by the municipality by members of the public.

(2) a policy that follows state law as to racial profiling.

(3) an open, fair, competitive and equitable promotion process

(4) a hiring process designed to encourage the application and recruitment of women and minorities.

(5) a prohibition against interfering with the right of a person who is a member of the bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the federal EEOC or to pursue affirmative action litigation.

Sec. 145.005. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) States that a municipality 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 peace officer's bargaining committee agree as provided by this chapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the agreement.

(b) The agreement must be written.

(c) Does not require a public employer or a recognized peace officer's bargaining committee to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized peace officer's bargaining committee may meet and confer only if the committee does not advocate an illegal strike by public employees.

Sec. 145.006 SELECTION OF PUBLIC EMPLOYER'S BARGAINING COMMITTEE. States that the public employer's chief executive officer or their designee shall select a group of persons to represent the public employer as its sole and exclusive bargaining agent for issues related to the employment of peace officers by the municipality. This committee must be representative of the community.

Sec. 145.007 RECOGNITION OF PEACE OFFICERS BARGAINING COMMITTEE.

(a) In a municipality that chooses to meet and confer under this chapter, the public employer shall recognize a peace officer's bargaining committee selected in accordance with this section.

(b) A petition for recognition signed by a majority of the peace officers employed by the municipality shall designate by name at least five peace officers to serve on this committee. to represent the peace officers on issues related to employment.

(c) After the initial agreement, the peace officer's bargaining committee shall submit the names of its representatives to the public employer before a meeting with the public employer's bargaining committee under this chapter.

(d) The peace officers bargaining committee shall make a reasonable effort to include peace officers on the committee who reflect the cultural and ethnic diversity of the law enforcement agency and the agency's divisions.

(e) The committee shall include additional representatives if the municipality has more than one organization that represents the peace officers employed by the municipality. Each organization is entitled to one representative on the peace officer's bargaining committee if:

(1) the organization is a labor organization listed under section 501(c) (4) or (5), Internal Revenue Code of 1986, and has a bona fide membership that includes at least 30 percent of the peace officers employed by the municipality.

(2) the organization represents members who are primarily racial minority peace officers and has a bona fide membership that includes at least 30 percent of the peace officers in the represented class employed by the municipality.

(f) The peace officers bargaining committee shall fairly represent all peace officers employed by the municipality regardless of race, creed, color, ethnic background, national origin, or affiliation of the peace officer with a particular labor group or organization.

(g) The public employer shall recognize the selected peace officer's bargaining committee until recognition of the association is withdrawn by a majority of the peace officers.

Sec. 145.008. EXEMPT EMPLOYEES. The following peace officers are considered exempt and are not entitled to participate in the selection of the peace officer's bargaining committee, serve on the peace officer's bargaining committee, or vote in an election to ratify an agreement:

- (1) the head of a law enforcement agency of the municipality
- (2) any employee considered exempt under Chapter 143 if the municipality has adopted the chapter
- (3) any other employee designated as exempt under an agreement ratified in accordance with this chapter.

Sec. 145.009. OPEN RECORDS. A proposed agreement and any document prepared and used in connection with a proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ratified by the governing body of the municipality. 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.

Sec. 145.010. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. An agreement under this chapter is enforceable and binding if the governing body of the municipality ratified the agreement by a majority vote and the recognized peace officer's bargaining committee ratified the agreement by conducting a secret ballot election of the peace officers of the municipality and a majority of the votes cast at the election favored ratifying the agreement.

Sec. 145.011. AGREEMENT SUPERCEDES CONFLICTING PROVISIONS. A written agreement ratified under this chapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality.

Sec. 145.012. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date of the agreement is ratified by the public employer and the peace officer's bargaining committee, a petition calling for the repeal of the agreement signed by a number of registered voters who reside 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 repeal the agreement or 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 of the municipality or at a special election called by the governing body of the municipality for that purpose. Provides language for which the ballot shall say in regards to voting for or against the proposition.

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

SECTION 2. Effective date: September 1, 2003.

**EFFECTIVE DATE:** September 1, 2003

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 1643 modifies the original by repositioning the added chapter in the Local Government Code; changes applicability of the added chapter; changes "Association," and its associated definition, to "Peace officer's bargaining committee," with a changed definition, as well the term's use throughout the bill; reorders sections; adding a section regarding "Mandatory Provisions Related to Agreements," adding additional language to sections regarding selection of public employer's bargaining agent and

recognition of peace officer's bargaining committee; separating out into separate section language regarding exempt employees; moving nondiscrimination language from section styled "Agreement Supersedes Conflicting Provisions," to section styled "Mandatory Provisions Related to Agreements;" adding section providing for an election to repeal agreement.