

## **BILL ANALYSIS**

C.S.S.B. 562  
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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 Senate Bill 562 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.S.B. 562 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. Amends Subtitle A, Title 5, Local Government Code, by adding Chapter 145, as follows:

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

Sec. 145.001. **APPLICABILITY.** (a) Provides that except as provided by Subsection (b), this subchapter applies to a municipality of this state that has a population of 10,000 or more and has adopted Chapter 143.

(b) Provides that this subchapter 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.** Defines “peace officer,” “peace officer’s bargaining committee,” and “public employer.”

Sec. 145.003. **STRIKES PROHIBITED.** (a) Prohibits a peace officer of a municipality from engaging in a strike or organized work stoppage against this state or the municipality.

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

(c) Provides that this section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Sec. 145.004. MANDATORY PROVISIONS RELATED TO AGREEMENTS. Requires an agreement ratified in accordance with this chapter to include certain information.

Sec. 145.005. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) Prohibits a municipality from being 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 recognized as the sole and exclusive bargaining agent under Section 145.007 agree as provided by this chapter. Provides that applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the agreement.

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

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

(d) Authorizes a public employer and the recognized peace officer's bargaining committee to 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.

(a) Requires the public employer's chief executive officer or the chief executive officer's designee to select a group of persons to represent the public employer as its sole and exclusive bargaining agent for issues related to the employment of peace officers by the municipality.

(b) Requires the public employer's bargaining committee to include at least one member of the general public, appointed by the governing body, and one member of the governing body.

Sec. 145.007. RECOGNITION OF PEACE OFFICER'S BARGAINING COMMITTEE.

(a) Requires the public employer, in a municipality that chooses to meet and confer under this chapter, to recognize a peace officers bargaining committee selected in accordance with this section.

(b) Requires a petition for recognition signed by a majority of the peace officers employed by the municipality, excluding the peace officers exempt under Section 145.008, to designate by name at least five peace officers to serve on the peace officer's bargaining committee to represent the peace officers as the sole and exclusive bargaining agent on issues related to the employment of peace officers by the municipality.

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

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

(e) Requires the committee, in addition to the representatives selected by the majority of peace officers to serve on the peace officer's bargaining committee under Subsection (b), to include additional representatives if the municipality has more than one organization that represents the peace officers employed by the municipality. Provides that each

organization is entitled to one representative on the peace officer's bargaining committee if certain conditions are met.

(f) Requires the peace officer's bargaining committee to 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) Requires the public employer to recognize the selected peace officer's bargaining committee until recognition of the association is withdrawn by a majority of the peace officers employed by the municipality, excluding employees exempt under Section 145.008.

Sec. 145.008. EXEMPT EMPLOYEES. Provides that certain peace officers are considered exempt and are not entitled to participate in the selection of the peace officer's bargaining committee, or vote in an election to ratify an agreement.

Sec. 145.009 OPEN RECORDS. (a) Provides that a proposed agreement and a document prepared and used by the municipality 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.

(b) Provides that 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. (a) Provides that an agreement under this chapter is enforceable and binding on the public employer, the recognized peace officer's bargaining committee, and the peace officers covered by the agreement only if certain conditions are met.

(b) Provides that 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 agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. Authorizes the court to issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

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

Sec. 145.012. ELECTION TO REPEAL AGREEMENT. (a) Authorizes 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, not later than the 60th day after the date an agreement is ratified by the public employer and the peace officer's bargaining committee, to be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) Requires the governing body of the municipality to perform certain tasks, if a petition is presented under Subsection (a).

(c) Authorizes an election called under Subsection (b)(2) to 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. Requires the ballot to be printed to provide for voting for or against the proposition:

“Repeal the agreement ratified on \_\_\_\_ (date agreement was ratified) by the \_\_\_\_\_ (name of the governing body of the municipality) and the peace officers employed by the \_\_\_\_\_ (name of public employer) concerning wages, salaries, rates of pay, hours of work, and other terms of employment.”

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

SECTION 2. Effective date.

**EFFECTIVE DATE:** September 1, 2003

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute modifies the original by deleting the requirement that an agreement include a policy that prohibits racial profiling; deleting the requirement that an agreement include a prohibition against interfering with the right to pursue affirmative action litigation; deleting the requirement that the public employer’s bargaining committee be representative of the community in that it is culturally and ethnically diverse; and changing the conditions under which each organization is entitled to one representative on the peace officer’s bargaining committee.