

By: Davis of Dallas, Hartnett, et al.

H.B. No. 2589

Substitute the following for H.B. No. 2589:

By: Talton

C.S.H.B. No. 2589

A BILL TO BE ENTITLED

AN ACT

relating to local control of fire fighter and police officer employment matters in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 5, Local Government Code, is amended by adding Chapter 146 to read as follows:

CHAPTER 146. LOCAL CONTROL OF FIRE FIGHTER AND POLICE OFFICER EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES WITH POPULATION OF ONE MILLION OR MORE

Sec. 146.001. APPLICABILITY. This chapter applies only to a municipality with a population of one million or more, but does not apply to a municipality that has adopted Chapter 143 or 174.

Sec. 146.002. DEFINITIONS. In this chapter:

(1) "Fire fighter" means a fire fighter employed by the municipality who is covered by the municipality's fire pension and is classified as exempt by the municipality, other than a fire fighter with a rank that is above that of battalion chief or section chief.

(2) "Fire fighter employee group" means an organization:

(A) in which, on or before September 1, 2005, fire fighters of the municipality participated and paid dues via automatic payroll deduction; and

(B) that exists for the purpose, in whole or in

1 part, of dealing with the municipality concerning grievances, labor
2 disputes, wages, rates of pay, hours of employment, or conditions
3 of employment affecting fire fighters.

4 (3) "Police officer" means a sworn police officer
5 employed by the municipality who is covered by the municipality's
6 police pension plan and is classified as exempt by the
7 municipality, other than a police officer with a rank above that of
8 captain. The term does not include a civilian or a municipal
9 marshal.

10 (4) "Police officer employee group" means an
11 organization:

12 (A) in which, on or before September 1, 2005,
13 police officers of the municipality participated and paid dues via
14 automatic payroll deductions; and

15 (B) that exists for the purpose, in whole or in
16 part, of dealing with the municipality concerning grievances, labor
17 disputes, wages, rates of pay, hours of employment, or conditions
18 of employment affecting police officers.

19 (5) "Public employer" means any municipality as
20 defined in Section 146.001.

21 Sec. 146.003. MEET AND CONFER TEAM; NEGOTIATIONS. (a) A
22 meet and confer team is created under this section and consists of
23 the following members:

24 (1) members representing the fire fighter employee
25 groups in the municipality, provided each group may appoint only
26 one fire fighter of the municipality to serve as a member of the
27 team; and

1 (2) members representing the police officer employee
2 groups in the municipality, provided each group may appoint only
3 one police officer of the municipality to serve as a member of the
4 team.

5 (b) The meet and confer team represents all fire fighters
6 and police officers in the municipality and shall negotiate with
7 the public employer in an effort to reach an agreement on concerns
8 shared by the fire fighters and police officers regarding terms of
9 employment, other than concerns relating to affirmative action,
10 employment discrimination, hiring, and promotions. Only the meet
11 and confer team created under this section may represent the fire
12 fighters or police officers of the municipality in the capacity
13 described by this subsection, except that the team may be
14 accompanied by legal counsel.

15 (c) The issues of affirmative action, hiring, promotions,
16 and discrimination shall be negotiated by individual fire fighter
17 and police officer associations, independent of the meet and confer
18 team.

19 (d) Expenses associated with the meet and confer team must
20 be divided pro rata among each fire fighter employee group and
21 police officer employee group based on the number of sworn fire or
22 police department members represented by each group.

23 (e) A public employer may designate one or more persons to
24 meet and confer on the public employer's behalf.

25 Sec. 146.004. GENERAL PROVISIONS RELATING TO AGREEMENTS,
26 RECOGNITION, AND STRIKES. (a) A municipality may not be denied
27 local control over the wages, salaries, rates of pay, hours of work,

1 and other terms of employment, or other state-mandated personnel
2 issues, if the public employer and the meet and confer team come to
3 a mutual agreement on any of the terms of employment. If an
4 agreement is not reached, the state laws, local ordinances, and
5 civil service rules remain unaffected. All agreements shall be
6 written. Nothing in this chapter requires either party to meet and
7 confer on any issue or reach an agreement.

8 (b) A public employer may meet and confer only if the meet
9 and confer team does not advocate the illegal right to strike by
10 public employees.

11 (c) Fire fighters and police officers of a municipality may
12 not engage in strikes against this state or a political subdivision
13 of this state. A fire fighter or police officer who participates in
14 a strike forfeits all civil service rights, reemployment rights,
15 and any other rights, benefits, or privileges the fire fighter or
16 police officer enjoys as a result of employment or prior
17 employment.

18 (d) In this section, "strike" means failing to report for
19 duty in concerted action with others, wilfully being absent from an
20 assigned position, stopping work, abstaining from the full,
21 faithful, and proper performance of the duties of employment, or
22 interfering with the operation of a municipality. Nothing in this
23 subsection prevents a fire fighter or police officer of a
24 municipality from conferring with members of the city council about
25 conditions, compensation, rights, privileges, or obligations of
26 employment.

27 Sec. 146.005. PAYROLL DUES DEDUCTIONS. The public employer

1 may not prevent automatic payroll deductions for dues paid to a fire
2 fighter employee group or police officer employee group.

3 Sec. 146.006. RECORDS AND MEETINGS. (a) An agreement made
4 under this chapter is a public record for purposes of Chapter 552,
5 Government Code. The agreement and any document prepared and used
6 by the municipality in connection with the agreement, except for
7 materials created during a municipality's caucuses and notes that
8 are otherwise privileged by law, are available to the public in
9 accordance with Chapter 552, Government Code, only after the
10 agreement is ratified by both parties.

11 (b) A meeting between the meet and confer team and any
12 persons designated to meet and confer on the municipality's behalf
13 is not subject to Chapter 551, Government Code.

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

17 Sec. 146.007. ENFORCEABILITY OF AGREEMENT. (a) A written
18 agreement made under this chapter between a public employer and the
19 meet and confer team is enforceable and binding on the public
20 employer, the meet and confer team, fire fighter employee groups,
21 police officer employee groups, and the fire fighters and police
22 officers covered by the agreement if:

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

25 (2) the agreement is ratified under Section 146.008.

26 (b) A state district court of the judicial district in which
27 a majority of the population of the municipality is located has full

1 authority and jurisdiction on the application of either party
2 aggrieved by an action or omission of the other party when the
3 action or omission is related to a right, duty, or obligation
4 provided by any written agreement ratified as required by this
5 chapter. The court may issue proper restraining orders, temporary
6 and permanent injunctions, and any other writ, order, or process,
7 including contempt orders, that are appropriate to enforcing any
8 written agreement ratified as required by this chapter.

9 Sec. 146.008. ELECTION TO RATIFY AGREEMENT. (a) The meet
10 and confer team shall call an election to ratify any agreement
11 reached with the public employer if the agreement has been approved
12 by five-sevenths of the members of the meet and confer team.

13 (b) All fire fighters and police officers of the
14 municipality are eligible to vote in the election.

15 (c) An agreement may be ratified under this section only if
16 at least 65 percent of the votes cast in the election favor the
17 ratification.

18 (d) A fire fighter or police officer who is not a member of a
19 fire fighter employee group or a police officer employee group may
20 be assessed a fee for any cost associated with casting the fire
21 fighter's or police officer's vote.

22 (e) The meet and confer team shall establish procedures of
23 the election by unanimous consensus.

24 SECTION 2. This Act takes effect September 1, 2005.