

By: Davis of Dallas

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 plan, 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, at least three percent of the fire fighters of the municipality participated and paid dues via automatic payroll deduction; and

(B) that exists for the purpose, in whole or in part, of dealing with the municipality concerning grievances, labor

1 disputes, wages, rates of pay, hours of employment, or conditions
2 of employment affecting fire fighters.

3 (3) "Police employee group" means an organization:

4 (A) in which, on or before September 1, 2005, at
5 least three percent of the police officers of the municipality
6 participated and paid dues via automatic payroll deduction; and

7 (B) that exists for the purpose, in whole or in
8 part, of dealing with the municipality concerning grievances, labor
9 disputes, wages, rates of pay, hours of employment, or conditions
10 of employment affecting police officers.

11 (4) "Police officer" means a sworn police officer
12 employed by the municipality who is covered by the municipality's
13 police pension plan, other than a police officer with a rank above
14 that of captain. The term does not include a civilian or a
15 municipal marshal.

16 (5) "Public employer" means any municipality or
17 agency, board, commission, or political subdivision controlled by a
18 municipality that is required to establish the wages, salaries,
19 rates of pay, hours, working conditions, and other terms and
20 conditions of employment of fire fighters and police officers. The
21 term includes, under appropriate circumstances, a mayor, manager,
22 administrator of a municipality, municipal governing body,
23 director of personnel, personnel board, or one or more other
24 officials, regardless of the name by which they are designated.

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

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

5 (2) members from the police employee groups in the
6 municipality, provided each group may appoint only one police
7 officer of the municipality to serve as a member of the team.

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

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

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

24 Sec. 146.004. GENERAL PROVISIONS RELATING TO AGREEMENTS,
25 RECOGNITION, AND STRIKES. (a) A municipality may not be denied
26 local control over the wages, salaries, rates of pay, hours of work,
27 and other terms of employment, or other state-mandated personnel

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

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

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

17 (d) In this section, "strike" means failing to report for
18 duty in concerted action with others, wilfully being absent from an
19 assigned position, stopping work, or abstaining from the full,
20 faithful, and proper performance of the duties of employment.

21 Sec. 146.005. PAYROLL DUES DEDUCTIONS. The public employer
22 may not stop or prevent automatic payroll deductions for dues paid
23 to a fire fighter employee group or police employee group.

24 Sec. 146.006. RECORDS AND MEETINGS. (a) An agreement made
25 under this subchapter is a public record for purposes of Chapter
26 552, Government Code. The agreement and any document prepared and
27 used by the municipality in connection with the agreement, except

1 for materials created during a municipality's caucuses and notes
2 that are otherwise privileged by law, are available to the public in
3 accordance with Chapter 552, Government Code, only after the
4 agreement is ratified by both parties.

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

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

11 Sec. 146.007. ENFORCEABILITY OF AGREEMENT. (a) A written
12 agreement made under this chapter between a public employer and the
13 meet and confer team is enforceable and binding on the public
14 employer, the meet and confer team, fire fighter employee groups,
15 police employee groups, and the fire fighters and police officers
16 covered by the agreement if:

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

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

20 (b) A state district court of the judicial district in which
21 a majority of the population of the municipality is located has full
22 authority and jurisdiction on the application of either party
23 aggrieved by an action or omission of the other party when the
24 action or omission is related to a right, duty, or obligation
25 provided by any written agreement ratified as required by this
26 chapter. The court may issue proper restraining orders, temporary
27 and permanent injunctions, and any other writ, order, or process,

1 including contempt orders, that are appropriate to enforcing any
2 written agreement ratified as required by this chapter.

3 Sec. 146.008. ELECTION TO RATIFY AGREEMENT. (a) The meet
4 and confer team shall call an election to ratify any agreement
5 reached with the public employer if the agreement has been approved
6 by a majority of the members of the meet and confer team.

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

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

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

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

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