

1-1 By: Davis of Dallas, et al. H.B. No. 2589
1-2 (Senate Sponsor - Deuell)
1-3 (In the Senate - Received from the House May 10, 2005;
1-4 May 12, 2005, read first time and referred to Committee on
1-5 Intergovernmental Relations; May 19, 2005, reported favorably by
1-6 the following vote: Yeas 5, Nays 0; May 19, 2005, sent to
1-7 printer.)

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to local control of fire fighter and police officer
1-11 employment matters in certain municipalities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle A, Title 5, Local Government Code, is
1-14 amended by adding Chapter 146 to read as follows:

1-15 CHAPTER 146. LOCAL CONTROL OF FIRE FIGHTER AND POLICE OFFICER
1-16 EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES WITH POPULATION OF ONE
1-17 MILLION OR MORE

1-18 Sec. 146.001. APPLICABILITY. This chapter applies only to
1-19 a municipality with a population of one million or more, but does
1-20 not apply to a municipality that has adopted Chapter 143 or 174.

1-21 Sec. 146.002. DEFINITIONS. In this chapter:

1-22 (1) "Fire fighter" means a fire fighter employed by
1-23 the municipality who is covered by the municipality's fire pension
1-24 and is classified as exempt by the municipality, other than a fire
1-25 fighter with a rank that is above that of battalion chief or section
1-26 chief.

1-27 (2) "Fire fighter employee group" means an
1-28 organization:

1-29 (A) in which, on or before September 1, 2005,
1-30 fire fighters of the municipality participated and paid dues via
1-31 automatic payroll deduction; and

1-32 (B) that exists for the purpose, in whole or in
1-33 part, of dealing with the municipality concerning grievances, labor
1-34 disputes, wages, rates of pay, hours of employment, or conditions
1-35 of employment affecting fire fighters.

1-36 (3) "Police officer" means a sworn police officer
1-37 employed by the municipality who is covered by the municipality's
1-38 police pension plan and is classified as exempt by the
1-39 municipality, other than a police officer with a rank above that of
1-40 captain. The term does not include a civilian or a municipal
1-41 marshal.

1-42 (4) "Police officer employee group" means an
1-43 organization:

1-44 (A) in which, on or before September 1, 2005,
1-45 police officers of the municipality participated and paid dues via
1-46 automatic payroll deductions; and

1-47 (B) that exists for the purpose, in whole or in
1-48 part, of dealing with the municipality concerning grievances, labor
1-49 disputes, wages, rates of pay, hours of employment, or conditions
1-50 of employment affecting police officers.

1-51 (5) "Public employer" means any municipality as
1-52 defined in Section 146.001.

1-53 Sec. 146.003. MEET AND CONFER TEAM; NEGOTIATIONS. (a) A
1-54 meet and confer team is created under this section and consists of
1-55 the following members:

1-56 (1) members representing the fire fighter employee
1-57 groups in the municipality, provided each group may appoint only
1-58 one fire fighter of the municipality to serve as a member of the
1-59 team; and

1-60 (2) members representing the police officer employee
1-61 groups in the municipality, provided each group may appoint only
1-62 one police officer of the municipality to serve as a member of the
1-63 team.

1-64 (b) The meet and confer team represents all fire fighters

2-1 and police officers in the municipality and shall negotiate with
 2-2 the public employer in an effort to reach an agreement on concerns
 2-3 shared by the fire fighters and police officers regarding terms of
 2-4 employment, other than concerns relating to affirmative action,
 2-5 employment discrimination, hiring, and promotions. Only the meet
 2-6 and confer team created under this section may represent the fire
 2-7 fighters or police officers of the municipality in the capacity
 2-8 described by this subsection, except that the team may be
 2-9 accompanied by legal counsel.

2-10 (c) The issues of affirmative action, hiring, promotions,
 2-11 and discrimination shall be negotiated by individual fire fighter
 2-12 and police officer associations, independent of the meet and confer
 2-13 team.

2-14 (d) Expenses associated with the meet and confer team must
 2-15 be divided pro rata among each fire fighter employee group and
 2-16 police officer employee group based on the number of sworn fire or
 2-17 police department members represented by each group.

2-18 (e) A public employer may designate one or more persons to
 2-19 meet and confer on the public employer's behalf.

2-20 Sec. 146.004. GENERAL PROVISIONS RELATING TO AGREEMENTS,
 2-21 RECOGNITION, AND STRIKES. (a) A municipality may not be denied
 2-22 local control over the wages, salaries, rates of pay, hours of work,
 2-23 and other terms of employment, or other state-mandated personnel
 2-24 issues, if the public employer and the meet and confer team come to
 2-25 a mutual agreement on any of the terms of employment. If an
 2-26 agreement is not reached, the state laws, local ordinances, and
 2-27 civil service rules remain unaffected. All agreements shall be
 2-28 written. Nothing in this chapter requires either party to meet and
 2-29 confer on any issue or reach an agreement.

2-30 (b) A public employer may meet and confer only if the meet
 2-31 and confer team does not advocate the illegal right to strike by
 2-32 public employees.

2-33 (c) Fire fighters and police officers of a municipality may
 2-34 not engage in strikes against this state or a political subdivision
 2-35 of this state. A fire fighter or police officer who participates in
 2-36 a strike forfeits all civil service rights, reemployment rights,
 2-37 and any other rights, benefits, or privileges the fire fighter or
 2-38 police officer enjoys as a result of employment or prior
 2-39 employment.

2-40 (d) In this section, "strike" means failing to report for
 2-41 duty in concerted action with others, wilfully being absent from an
 2-42 assigned position, stopping work, abstaining from the full,
 2-43 faithful, and proper performance of the duties of employment, or
 2-44 interfering with the operation of a municipality. Nothing in this
 2-45 subsection prevents a fire fighter or police officer of a
 2-46 municipality from conferring with members of the city council about
 2-47 conditions, compensation, rights, privileges, or obligations of
 2-48 employment.

2-49 Sec. 146.005. PAYROLL DUES DEDUCTIONS. The public employer
 2-50 may not prevent automatic payroll deductions for dues paid to a fire
 2-51 fighter employee group or police officer employee group.

2-52 Sec. 146.006. RECORDS AND MEETINGS. (a) An agreement made
 2-53 under this chapter is a public record for purposes of Chapter 552,
 2-54 Government Code. The agreement and any document prepared and used
 2-55 by the municipality in connection with the agreement, except for
 2-56 materials created during a municipality's caucuses and notes that
 2-57 are otherwise privileged by law, are available to the public in
 2-58 accordance with Chapter 552, Government Code, only after the
 2-59 agreement is ratified by both parties.

2-60 (b) A meeting between the meet and confer team and any
 2-61 persons designated to meet and confer on the municipality's behalf
 2-62 is not subject to Chapter 551, Government Code.

2-63 (c) This section does not affect the application of
 2-64 Subchapter C, Chapter 552, Government Code, to a document prepared
 2-65 and used by the municipality in connection with the agreement.

2-66 Sec. 146.007. ENFORCEABILITY OF AGREEMENT. (a) A written
 2-67 agreement made under this chapter between a public employer and the
 2-68 meet and confer team is enforceable and binding on the public
 2-69 employer, the meet and confer team, fire fighter employee groups,

3-1 police officer employee groups, and the fire fighters and police
3-2 officers covered by the agreement if:

3-3 (1) the municipality's governing body ratified the
3-4 agreement by a majority vote; and

3-5 (2) the agreement is ratified under Section 146.008.

3-6 (b) A state district court of the judicial district in which
3-7 a majority of the population of the municipality is located has full
3-8 authority and jurisdiction on the application of either party
3-9 aggrieved by an action or omission of the other party when the
3-10 action or omission is related to a right, duty, or obligation
3-11 provided by any written agreement ratified as required by this
3-12 chapter. The court may issue proper restraining orders, temporary
3-13 and permanent injunctions, and any other writ, order, or process,
3-14 including contempt orders, that are appropriate to enforcing any
3-15 written agreement ratified as required by this chapter.

3-16 Sec. 146.008. ELECTION TO RATIFY AGREEMENT. (a) The meet
3-17 and confer team shall call an election to ratify any agreement
3-18 reached with the public employer if the agreement has been approved
3-19 by five-sevenths of the members of the meet and confer team.

3-20 (b) All fire fighters and police officers of the
3-21 municipality are eligible to vote in the election.

3-22 (c) An agreement may be ratified under this section only if
3-23 at least 65 percent of the votes cast in the election favor the
3-24 ratification.

3-25 (d) A fire fighter or police officer who is not a member of a
3-26 fire fighter employee group or a police officer employee group may
3-27 be assessed a fee for any cost associated with casting the fire
3-28 fighter's or police officer's vote.

3-29 (e) The meet and confer team shall establish procedures of
3-30 the election by unanimous consensus.

3-31 SECTION 2. This Act takes effect September 1, 2005.

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