

BILL ANALYSIS

C.S.H.B. 866
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Civil Service employees and their respective governmental entities regularly enter into discussion regarding critical employment matters.

The proposed complete committee substitute for House Bill No. 866 would institute a Meet and Confer Team consisting of fire fighter employee groups and police officer employee groups to address employment issues.

The team would represent all fire fighters and police officers in the municipality and would negotiate with the public employer to reach an agreement regarding terms of employment.

If an agreement is not reached between the team and the public employer, the state laws, local ordinances, and civil service rules remain enforced.

Provisions of the substitute for House Bill No. 866 would only apply to metropolitan areas with a population of one million, unless the municipality has adopted Chapter 143 or Chapter 147 of the Local Government Code.

RULEMAKING AUTHORITY

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, of the Local Government Code by adding Chapter 147 as follows:

Section 147.001

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

Section 147.002

(1) “Firefighter” means a firefighter employed by the municipality covered under the municipality’s fire pension plan, and is classified by the municipality as exempt. The term does not include 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) that firefighters of the municipality participated and paid dues via automatic payroll deduction on or before September 1, 2007;

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

(3) “Police officer” means a sworn police officer employed by the municipality who is covered by the municipality’s police pension plan, and is classified by the municipality as exempt, other than a police officer with a rank above that of captain. The term does not include a civilian or a municipal marshal.

(4) “Police employee group” means an organization:

(A) represented at least three percent of the police officers of the municipality and paid dues via automatic payroll deduction on or before September 1, 2007.

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

Section 147.003

(a) A meet and confer team is created under this section and consists of:

(1) members representing the firefighter employee groups in the municipality. Each group may appoint only one fire fighter of the municipality to serve as a member of the team; and

(2) members representing the police officer employee groups in the municipality. Each group may appoint only one police officer of the municipality to serve as a member of the team.

(b) The meet and confer team represents all fire fighters and police officers in the municipality. The team shall negotiate with the municipality in an effort to reach an agreement on concerns shared by the firefighters and police officers regarding terms of employment, including concerns relating to wages, benefits, and other working conditions but excluding concerns relating to pensions. Only the meet and confer team created under this section may represent the fire fighters or police officers of the municipality in the capacity described by this subsection, except that the team may be accompanied by legal counsel.

(c) Concerns relating to affirmative action, employment discrimination, hiring, and promotions may be discussed by individual firefighter and police officer associations independent of the meet and confer team.

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

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

Section 147.004

(a) A municipality may not be denied local control over the wages, salaries, rates of pay, hours of work, and other terms of employment, or other state-mandated personnel issues, if the municipality and meet and confer team comes to a mutual agreement on any of the terms of employment. If an agreement is not reached, the state laws, local ordinances, and civil service rules remain unaffected. All agreements shall be written. Nothing in this chapter requires either party to meet and confer on any issue or reach any agreement.

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

(c) Fire fighters and police officers of a municipality may not participate in strikes against this state or a political subdivision of this state. A fire fighter or police officer who is engaged in a strike forfeits all civil service rights, re-employment rights, and other rights, benefits, or privileges the firefighter or police officer enjoys as a result of employment or prior employment.

(d) In this section, “strike” means failing to report for duty in concerted action with others, willfully being absent from an assigned position, stopping work, or abstaining from the full, faithful, and proper performance of the duties of employment. This section would not prohibit a firefighter or police officer from conferring with members of the municipal governing body about conditions, compensation, rights, privileges, or obligations of employment

Section 147.005

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

Section 147.006

(a) An agreement made under this subchapter is public information for purposes of Chapter 552, Government Code. The agreement and any document prepared and used by the municipality in connection with the agreement are available to the public in accordance with Chapter 552, Government Code, only after the agreement is ratified by both parties. The exception to this relates to materials created during a municipality’s caucuses and notes that are otherwise privileged by law.

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

(c) 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.

Section 147.007

(a) A written agreement made under this chapter between a municipality and the meet and confer team is enforceable and binding on the municipality, the meet and confer team, fire fighter employee groups, police officer employee groups, and the fire fighters and police officers covered by the agreement if:

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

(2) the agreement is ratified under section 147.008.

(b) A state district court of the judicial district in which a majority of the population of the municipality is located has full authority and jurisdiction on the application of either party 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 any written agreement ratified as required by this chapter. The court may issue proper restraining orders, temporary and permanent injunctions, and any other writ, order, or process including contempt orders that are appropriate to enforcing any written agreement ratified as required by this chapter.

Section 147.008

(a) The meet and confer team shall call an election to ratify any agreement reached with the municipality if the agreement has been approved by a five-sevenths of the members of the meet and confer team.

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

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

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

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

SECTION 2. Effective date of September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The proposed complete committee substitute for House Bill No. 866 amends the definition of an eligible police officers organization to include that the organization must represent at least three percent of the police officers of the municipality on or before September 1, 2007.

The substitute also amends the list of issues that the Meet and Confer Team can discuss collectively as a team.

Finally, the substitute amends the bill to make the city's discussion of issues relating to affirmative action, employment discrimination, hiring and promotions independent of the Meet and Confer Team permissive instead of mandatory.