

BILL ANALYSIS

C.S.H.B. 1636
By: Menendez
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Historically, the Texas Legislature has prohibited the State and political subdivisions from recognizing a labor organization and negotiating a collective bargaining contract with public employees. However, in recent years, the Legislature has granted "meet and confer" rights to certain municipal departments. These rights allow employees to negotiate agreements with their employers regarding employment issues such as wages, staffing, benefits, equipment and training. This practice has been successful because, unlike collective bargaining requirements, "meet and confer" provisions are permissive and neither the employees nor the employer are mandated to meet or to reach an agreement.

"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), the Fort Worth Police and Fire Departments (2001), and the Houston Metropolitan Transit Authority Police Department (2001). In 2005, the 79th Legislature enacted House Bill No. 304 which allows "meet and confer" for police officers in all cities that have adopted the Municipal Civil Service Act for Fire and Police and all other cities with a population of 50,000 or higher. The 2005 law excluded "municipalities" that had adopted collective bargaining, which included San Antonio. However, collective bargaining in San Antonio does not apply to park and airport police officers.

As proposed, the complete committee substitute for House Bill No. 1636, would amend the applicability section of Subchapter B, Chapter 142, Local Government Code, to cover municipalities that have adopted Chapter 174, but not police officers covered by a collective bargaining agreement adopted under Chapter 174. The substitute would also add language that would allow a municipality to recognize a peace officer association that represents peace officers employed by the municipality in a city department other than the police department.

RULEMAKING AUTHORITY

It is the committee's opinion that this legislation does not expressly grant any additional rulemaking authority to a State officer, institution, department or agency.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Would amend Section 142.051(b), Local Government Code, to provide that the subchapter doesn't apply to a peace officer who is covered by a collective bargaining agreement adopted under Chapter 174 or an agreement adopted under Subchapter H, I, or J of Chapter 143, or to a municipality with a population of one million or more that has not adopted Chapter 143.

SECTION 2. Would create Section 142.069, Local Government Code, relating to certain peace officers employed by a municipality. Subsection (a) defines "peace officer". Defines "peace officer association" as an employee organization which peace officers employed by a municipal department other than the police department participate. Subsection (b) provides that Sec. 142.069 only applies to peace officers employed in a department other than the police department and does not apply to members of the police department. Subsection (c) provides that a governing body of a municipality that receives a petition from a peace officers association signed by the majority of peace officer employed by a municipal department other than the police department shall grant recognition of the association or defer granting recognition of the

association and order an election by the voters to determine whether the employer may meet and confer with the peace officers association, or order a certification election to determine if the association represents a majority of the affected peace officers. Subsection (d) provides that if more than one department within a municipality, excluding the police department, employs peace officers, then a separate petition must be submitted for each. Subsection (e) provides that if the governing body of a municipality orders a certification election and the named association is certified to represent the majority of peace officers of the affected municipal department, the governing body shall grant recognition or defer granting recognition of the association and order an election by the voters to determine whether the employer may meet and confer with the peace officers association. Subsection (f) provides that the ballot for an election shall be printed to permit voting for or against the proposition. Subsection (g) provides that if a municipality recognizes a peace officers association under the section, then the subchapter applies to the municipality, the recognized association for the affected municipal department, and the affected peace officers in the same manner as it applies to a police officers association and police officers. The wording of any ballot proposition not covered by Subsection (f) shall be conformed accordingly. Subsection (h) provides that a municipality may not be denied local control over conditions of employment to the extent the public employer and police officers association agree as provided by the subchapter if the agreement is ratified. Statutes, ordinances, and rules apply to an issue not governed by the meet and confer agreement. The meet and confer agreement must be written. The subchapter does not require a public employer or police officers association to meet and confer or reach an agreement. Meet and confer may only occur if the association does not advocate an illegal strike by public employees. While a meet and confer agreement is in effect, the public employer may not accept a petition for municipal civil service under Chapter 143 or collective bargaining under Chapter 174.

SECTION 3. Would establish the effective date of the legislation as September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill simply amended the applicability section for Subchapter B, Chapter 142, to provide that the subchapter does not apply to a peace officer who is covered by a collective bargaining agreement under Chapter 174 or an agreement under Subchapter H, I, or J, Chapter 143. The proposed complete committee substitute, however, clarifies that the statute covers other peace officers employed by a municipality in a municipal department other than the police department, even if the police officers in the police department are covered by a collective bargaining agreement under Chapter 174 or a meet and confer agreement under Chapter 143. The substitute adds a new section to Subchapter B, Chapter 142, to clarify the procedures for a municipality to recognize an association that represents peace officers employed by the municipality in a municipal department other than the police department and provisions of Subchapter B are restated in the new section to clarify that these provisions apply to the association and these peace officers in the same manner that the statute applies to police officers employed by the police department.