

## **BILL ANALYSIS**

C.S.H.B. 2099  
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Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Firefighters and police officers of the City of San Antonio are currently covered by meet and confer legislation, but there are no provisions covering the employment matters of San Antonio's other municipal employees.

The proposed complete committee substitute for House Bill No. 2099 grants public employee associations of a municipality of 1 million or more and that has adopted Chapter 174 and is not covered by Chapter 146 the right to meet and confer with a public employer over issues such as wages, hours, working conditions, and all other terms and conditions of employment, and prohibits strikes and work stoppages by employees who participate in these organizations.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that 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, Local Government Code, by adding Chapter 147, as follows:

#### **CHAPTER 147. LOCAL CONTROL OF MUNICIPAL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES**

##### **Sec. 147.001. APPLICABILITY.**

(a) Provides that this chapter applies only to a municipality with a population of 1 million or more that has adopted Chapter 174 and is not covered by Chapter 146.

(b) Provides that this chapter does not apply to (1) firefighters or police officers who are covered by Subchapters H, I, or J of Chapter 143 or by Chapter 174; (2) police officers employed in a municipality's airport or parks and recreation department; (3) employees managed by a municipally owned utility or other separate agency, board, or political subdivision created or controlled by a municipality; or (4) an employee association in which employees described by Subdivision (1), (2), or (3) participate.

(c) Provides that this chapter does not affect any provisions or procedure governing employer-employee relations at an entity described by Subsection (b)(2) or (3).

Sec. 147.002 MEET AND CONFER PROCESS; AGREEMENTS. Provides that a municipality may design a meet and confer process and enter into a written agreement with an employee association recognized in accordance with the process as the sole and exclusive bargaining agent of an employee bargaining unit, under terms and conditions established by the municipality in accordance with this chapter.

##### **Sec. 147.003. GENERAL PROVISIONS.**

(a) Provides that a municipality that designs a meet and confer process under this chapter may not be denied local control over wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other state-mandated personnel issues covered by a meet and confer agreement. It further provides that a municipality may enter into a written agreement governing these issues with an employee association recognized under the municipality's meet and confer process as the sole and exclusive bargaining agent for an employee bargaining unit that does not advocate the illegal right to strike by municipal employees.

(b) Provides that the municipality may establish procedures the municipality considers necessary and proper for the implementation of this chapter, including procedures for an election by the voters in the municipality regarding whether the municipality may meet and confer under this chapter.

#### Sec. 147.004. STRIKES PROHIBITED.

(a) Provides that a municipal employee, employee representative, or employee association may not, either independently or jointly, declare or engage in a strike or organized work stoppage against this state or municipality.

(b) Provides that a municipal employee who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the employee may have as a result of the employee's employment or prior employment with the municipality.

(c) Provides that this section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Sec. 147.005. ENFORCEABILITY OF AGREEMENT. Provides that a state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under a ratified written meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, obligation provided by the agreement. It further provides that the court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

#### Sec. 147.006. ELECTION TO REPEAL AGREEMENT.

(a) Provides that not later than the 45th day after the date a written meet and confer agreement is ratified by the governing body of the municipality and the recognized employee association, a petition calling for the repeal of the agreement signed by at least 10 percent of the qualified voters residing in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) Provides that if a petition is presented under Subsection (a), the governing body of the municipality shall: (1) repeal the meet and confer agreement; or (2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) Provides that an election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality or at a special election called by the governing body for that purpose. It further provides that the ballot shall be printed to permit voting for or against the proposition: "Repeal the meet and confer agreement ratified on (date agreement was ratified) by the (name of the governing body of the municipality) and the (name of the recognized employee association) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) Provides that if a majority of the votes cast at the election favor repeal of the agreement, the agreement is void.

Sec. 147.007. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. Provides that a written meet and confer agreement ratifies under this chapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes or rules adopted by this

state regarding wages, hours of work, and other conditions of employment, other than a statute or rule regarding pensions or pension-related matters.

SECTION 2. Provides that the effective date is September 1, 2007.

### **EFFECTIVE DATE**

This Act takes effect September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The proposed substitute adds Section 147.001(b)(2) and (3) providing that this chapter does not apply to police officers employed in a municipality's airport or parks and recreation department or to employees managed by a municipally owned utility or other separate agency, board, or political subdivision created or controlled by a municipality. Section 147.001(b)(4) was added to clarify that this chapter does not apply to employee associations in which employees of Subdivisions (1), (2) or (3) participate. Section 147.001(c) was added to clarify the this chapter does not affect any provision or procedure governing employer-employee relations at an entity described by Subsection (b)(2) or (3).

Section 147.002 of the original bill was entitled DEFINITIONS, including definitions for "covered employee", "employee association", and "public employer." Section 147.002 of the proposed substitute deletes the definitions, and instead is entitled MEET AND CONFER PROCESS; AGREEMENTS, providing that a municipality may design a meet and confer process and enter into a written agreement with an employee association recognized in accordance with the process as the sole and exclusive bargaining agent of an employee bargaining unit, under terms and conditions established by the municipality in accordance with this chapter.

Section 147.003 GENERAL PROVISIONS RELATING TO AGREEMENTS AND RECOGNITION has been deleted, and the proposed substitute in Sec. 147.003 GENERAL PROVISIONS in subdivision (a) provides that a municipality that designs a meet and confer process under this chapter may not be denied local control over wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other state-mandated personnel issues covered by a meet and confer agreement. It further provides that a municipality may enter into a written agreement governing these issues with an employee association recognized under the municipality's meet and confer process as the sole and exclusive agent for an employee bargaining unit that does not advocate the illegal right to strike by municipal employees. The proposed substitute in Sec. 147.003(b) provides that the municipality may establish procedures the municipality considers necessary and proper for the implementation of this chapter, including procedures for an election by the voters in the municipality regarding whether the municipality may meet and confer under this chapter.

Section 147.004 of the original bill entitled PETITION FOR RECOGNITION has been deleted, and the proposed substitute in Sec. 147.004 STRIKES PROHIBITED provides in subdivision (a) that a municipal employee, employee representative, or employee association may not, either independently or jointly, declare or engage in a strike or organized work stoppage against this state or the municipality. The new subdivision (b) provides that a municipal employee who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the employee may have as a result of the employee's employment or prior employment with the municipality. The new subdivision (c) provides that this section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Section 147.005 of the original bill entitled CERTIFICATION ELECTION has been deleted, and the proposed substitute in Sec. 147.005 ENFORCEABILITY OF AGREEMENT provides that a state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under a ratified written meet and confer agreement on the application of a party to the agreement 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 the agreement. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Section 147.006 of the original bill entitled ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER has been deleted, and the proposed substitute in Sec. 147.006 ELECTION TO REPEAL AGREEMENT provides in subdivision (a) that not later than the 45th day after the date a written meet and confer agreement is ratified by the governing body of the municipality and the recognized employee association, a petition calling for the repeal of the agreement signed by at least 10 percent of the qualified voters residing in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code. Subdivision (b) provides that if a petition is presented under Subsection (a), the governing body of the municipality shall: (1) repeal the meet and confer agreement; or (2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement. Subdivision (c) provides that an election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality or at a special election called by the governing body for that purpose. The ballot shall be printed to permit voting for or against the proposition: "Repeal the meet and confer agreement ratified on (date agreement was ratified) by the (name of the recognized employee association) concerning wages, salaries, rates of pay, hours of work, and other terms of employment." Subdivision (d) provides that if a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void. This language is similar to language in Sec. 147.015 of the original bill.

Section 147.007 of the original bill entitled CHANGE OR MODIFICATION OF RECOGNITION has been deleted, and the proposed substitute in Sec. 147.007 AGREEMENT SUPERSEDES CONFLICTING PROVISIONS provides that a written meet and confer agreement ratified under this chapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes or rules adopted by this state regarding wages, hours of work, and other conditions of employment, other than a statute or rule regarding pensions or pension-related matters. This language is similar to language in the original bill, Section 147.017.

Section 147.008 of the original bill entitled STRIKES PROHIBITED has been deleted, and the proposed substitute contains similar language in Sec. 147.004.

Section 147.009 RECOGNITION OF EMPLOYEE ASSOCIATION has been deleted.

Section 147.010 SELECTION OF BARGAINING AGENT; BARGAINING UNIT has been deleted.

Section 147.011 PROTECTED RIGHTS OF EMPLOYEES has been deleted.

Section 147.012 OPEN RECORDS has been deleted.

Section 147.013 OPEN DELIBERATIONS has been deleted.

Section 147.014 RATIFICATION AND ENFORCEABILITY OF AGREEMENT has been deleted. The proposed substitute contains language in Section 147.005 that is similar to Sec. 147.014(c) of the original bill.

Section 147.015 ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS CHAPTER has been deleted.

Section 147.016 ELECTION TO REPEAL AGREEMENT has been deleted.

Section 147.017 AGREEMENT SUPERSEDES CONFLICTING PROVISIONS has been deleted. Similar language is contained in Sec. 147.007 of the proposed substitute.