

## **BILL ANALYSIS**

Senate Research Center

S.B. 1104  
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Intergovernmental Relations  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Historically, the Texas Legislature has prohibited the state and political subdivisions of the state 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 that allow employees to negotiate agreements with their employers regarding employment issues to certain municipal departments. This practice has been successful policy because the employers and employees are not required to reach an agreement.

In 2005, the legislature passed a bill that allows "meet and confer" rights for police officers and firefighters 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 more.

S.B. 1104 authorizes an emergency medical services (EMS) personnel association in a municipality with a population over 460,000 having a city manager form of government and that employs EMS personnel in a department other than a fire department to "meet and confer" with the public employer concerning wages and other employment conditions.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 142, Local Government Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. LOCAL CONTROL OF EMERGENCY MEDICAL SERVICES PERSONNEL EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES**

Sec. 142.151. **APPLICABILITY.** Provides that this subchapter applies only to a municipality with a population of 460,000 or more that operates under a city manager form of government and that employs emergency medical services personnel in a municipal department other than the fire department.

Sec. 142.152. **DEFINITIONS.** Defines "association," "emergency medical services personnel," and "public employer."

Sec. 142.153. **GENERAL PROVISIONS RELATING TO AGREEMENTS.** (a) Prohibits a municipality from being denied local control over wages, salaries, rates of pay, hours of employment, other terms and conditions of employment, or other personnel issues on which the public employer and an association that is recognized as the sole and exclusive bargaining agent under Section 142.155 for all emergency medical services personnel in the municipality agree. Provides that the applicable statutes, local ordinances, and civil service rules govern a term or condition of employment on which the public employer and the association do not agree.

(b) Requires an agreement under this subchapter to be written.

(c) Provides that this subchapter does not require the public employer and an association to meet and confer or reach an agreement on any issue.

Sec. 142.154. STRIKES PROHIBITED. (a) Authorizes a public employer and an association recognized as the sole and exclusive bargaining agent under Section 142.155 (association) to meet and confer only if the association does not advocate the illegal right to strike by public employees.

(b) Prohibits emergency medical services personnel of a municipality from engaging in a strike or organized work stoppage against this state or a political subdivision of this state.

(c) Provides that emergency medical services personnel who participate in a strike forfeit certain rights enjoyed as a result of employment or previous employment with the municipality.

(d) Provides that this section does not affect the right of a person to cease employment if the person is not acting in concert with other emergency medical services personnel.

Sec. 142.155. RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL ASSOCIATION. [sic] Authorizes the governing body of a municipality to recognize an association that submits a petition signed by a majority of the paid emergency medical services personnel in the municipality, excluding the head of the emergency medical services department and any person who is exempt under Subsection (b), as the sole and exclusive bargaining agent for all of the covered emergency medical services personnel until recognition of the association is withdrawn by a majority of the covered emergency medical services personnel.

(b) Provides that, for purposes of Subsection (a), exempt employees are assistant department heads in the rank or classification immediately below that of the department head and any other employees who are designated as exempt or whose job titles are designated as exempt by the mutual agreement of the recognized association and the public employer.

Sec. 142.156. ELECTION. (a) Requires determination whether an association represents a majority of the covered emergency medical services personnel to be resolved by a fair election, conducted according to procedures agreed on by the parties, at which only a person eligible to sign a petition under Section 142.155 is authorized to vote.

(b) Authorizes a party to request the American Arbitration Association to conduct the election and to certify the results if the parties are unable to agree on election procedures under Subsection (a). Provides that certification of the results of an election under this subsection resolves the question concerning representation.

(c) Requires the association to pay the costs of an election under this section, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the covered emergency medical services personnel, the associations are required to share equally the costs of the election.

Sec. 142.1565. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) Requires the governing body of a municipality to order an election to determine whether a public employer is authorized to meet and confer under this subchapter if the governing body does not recognize an association that submits a petition under Section 142.155 and that has been determined by the governing body or under Section 142.156 to represent a majority of the covered emergency medical services personnel.

(b) Requires an election ordered under this section to be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) Sets forth the required language for the ballot.

(d) Requires an election ordered under this section to be held and the returns prepared and canvassed in conformity with the Election Code.

(e) Authorizes the municipality, if an election under this section is held, to operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) Prohibits an association, if an election under this section is held, from submitting a petition for recognition to the governing body of the municipality under Section 142.155 before the second anniversary of the date of the election.

Sec. 142.157. **SELECTION OF BARGAINING AGENTS.** Requires the public employer's manager or chief executive, as appropriate, and the head of the emergency medical services department to designate a group of persons to represent the public employer as its sole and exclusive bargaining agent.

Sec. 142.158. **OPEN RECORDS REQUIRED.** (a) Provides that a proposed agreement and any document prepared and used by the municipality in connection with a proposed agreement are available to the public under the public information law only after the agreement is ratified by the municipality's governing body.

(b) Provides that this section does not affect the application of Subchapter C, Chapter 552 (Public Information), Government Code, to a document prepared and used by the municipality in connection with the agreement.

Sec. 142.159. **RATIFICATION AND ENFORCEABILITY OF AGREEMENT.** (a) Provides that an agreement made under this subchapter between a public employer and an association is binding on the public employer, the association, and the emergency medical services personnel covered by the agreement under certain circumstances.

(b) Authorizes an agreement ratified as described by Subsection (a) to establish a procedure by which the parties agree to resolve disputes related to certain responsibilities provided by the agreement, including binding arbitration on interpretation of the agreement.

(c) Provides that the state district court (court) of the judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified agreement on the application of a party to the agreement aggrieved by an act or omission of the other party. Authorizes the court to issue certain appropriate orders to enforce the agreement.

Sec. 142.160. **AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.** (a) Provides that an agreement under this subchapter supersedes a previous statute concerning certain terms and conditions of employment to the extent of any conflict with the statute.

(b) Provides that an agreement under this subchapter preempts any contrary order, ordinance, or rule adopted by certain entities.

(c) Prohibits an agreement under this subchapter from diminishing or qualifying any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority vote by secret ballot of the members of the association recognized under Section 142.155 at which only members of the

association who are eligible to sign a petition under Section 142.155 are authorized to vote.

Sec. 142.1605. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) Authorizes the governing body of a municipality that granted recognition of an association under Section 142.155 without conducting an election under Section 142.1565 to withdraw recognition of the association by providing to the association not less than 90 days' written notice that the governing body is withdrawing recognition of the association and any agreement between the two will not be renewed.

(b) Authorizes the governing body of a municipality that granted recognition of an association after conducting an election under Section 142.1565 to order an election to determine whether a public employer may continue to meet and confer under this subchapter. Prohibits the governing body from ordering an election under this subsection until the second anniversary of the date of the election under Section 142.1565.

(c) Requires an election ordered under Subsection (b) to be held as part of the next regularly schedule general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) Sets forth the required language for the ballot.

(e) Requires an election ordered under Subsection (b) to be held and the returns prepared and canvassed in conformity with the Election Code.

(f) Authorizes the municipality, if an election ordered under Subsection (b) is held, to continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) Prohibits an association, if an election ordered under Subsection (b) is held, from submitting a petition for recognition to the governing body of the municipality under Section 142.155 before the second anniversary of the date of the election.

Sec. 142.161. REPEAL OF AGREEMENT BY ELECTORATE. (a) Authorizes a petition signed by at least 10 percent of the qualified voters of the municipality to be presented to the municipal secretary calling for an election to repeal the agreement not later than the 45th day after the date an agreement is ratified by both the municipality and the association.

(b) Requires the governing body of the municipality to reconsider the agreement and either repeal the agreement or call an election of the qualified voters of the municipality to determine if the voters favor repealing the agreement on receipt by the municipal secretary of a petition described by Subsection (a). Requires the election to be called for the next election held in the municipality that allows sufficient time to comply with applicable provisions of law or at a special election called by the governing body for that purpose.

(c) Provides that an agreement is void if at the election a majority of the votes cast favor repeal of the adoption of the agreement.

(d) Requires the ballot for an election under this section to be printed to permit voting for or against the proposition and sets forth the wording of the proposition.

Sec. 142.162. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a) Authorizes a member of the association to choose to be represented by any person of the member's choice or by the association for the purpose of any disciplinary appeal.

(b) Prohibits an agreement from interfering with the right of a member of the association to pursue allegations of discrimination based on race, creed, color, national, origin, religion, age, sex, or disability with the civil rights division of the Equal Employment Opportunity Commission, or to pursue affirmative action litigation.

Sec. 142.163. BINDING INTEREST ARBITRATION. (a) Authorizes a municipality to be required to submit to binding interest arbitration only if approved by a majority of those voting in a public referendum conducted in accordance with the municipality's charter.

(b) Provides that Subsection (a) does not affect any disciplinary arbitration or arbitration provision in a ratified agreement.

SECTION 2. Effective date: upon passage or September 1, 2007.