

BILL ANALYSIS

S.B. 1183
By: Watson
Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, not all employees of a municipality with a population of 650,000 or more that operates under a city manager form of government are able to negotiate wages or working conditions. In particular, firefighters and police officers of the City of Austin are currently covered by meet and confer and/or collective bargaining legislation, but there are no provisions covering the employment matters of Austin's other municipal employees.

The engrossed version of Senate Bill No. 1183 grants public employee associations in a municipality with a population of 650,000 or more that operates under a city manager form of government 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. This bill also prohibits strikes and work stoppages by employees who participate in such organizations.

RULEMAKING AUTHORITY

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

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.** Provides that this chapter applies only to a municipality with a population of 650,000 or more that operates under a city manager form of government. Sets forth the individuals and entities to which this chapter does not apply.

Sec. 147.002. **DEFINITIONS.** Defines "appointed employee," "covered employees," "emergency medical services personnel," "employee association," and "public employer."

Sec. 147.003. **GENERAL PROVISIONS RELATING TO AGREEMENTS AND RECOGNITION.** (a) Prohibits a municipality from being denied local control over wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other state-mandated personnel issues. Authorizes a public employer to enter into a mutual agreement governing these issues with an employee association (association) recognized under this chapter as the sole and exclusive bargaining agent for all covered employees that does not advocate the illegal right to strike by municipal employees. 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 chapter to be written.

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

(d) Provides that this chapter does not authorize an agreement regarding pension or pension-related matters governed by statute.

Sec. 147.004. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Requires the governing body of a municipality, not later than the 30th day after the date it receives from an association a petition signed by the majority of all covered employees that requests recognition of the association as the sole and exclusive bargaining agent for all the covered employees, to:

(1) grant recognition of the association and find that the public employer may meet and confer under this chapter without conducting an election by the voters under Section 147.006;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 147.006 regarding whether a public employer may meet and confer under this chapter; or

(3) order a certification election under Section 147.005 to determine whether the association represents a majority of the employees.

(b) Requires the governing body, if it orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the covered employees, to, not later than the 30th day after the date that the election results are certified:

(1) grant recognition of the association and find that the public employer may meet and confer under this chapter without conducting an election by the voters under Section 147.006; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 147.006 regarding whether a public employer may meet and confer under this chapter.

Sec. 147.005. CERTIFICATION ELECTION. (a) Requires a certification election ordered under Section 147.004(a)(3), except as provided by Subsection (b), to determine whether an association represents a majority of the covered employees to be conducted according to procedures agreeable to the parties.

(b) Authorizes either party to request the American Arbitration Association to conduct the certification election and to certify the results if the parties are unable to agree on procedures for the election.

(c) Requires the results of a certification election to be certified if the employee association receives a majority of valid votes cast in the election.

(d) Provides that the association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the employees eligible to sign the petition for recognition, all associations named in any petition are required to share equally the costs of the election.

Sec. 147.006. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER. (a) Authorizes the governing body of a municipality that receives a petition for recognition under Section 147.004 to order an election to determine whether a public employer is authorized to meet and confer under this chapter.

(b) Requires an election ordered under this section to be held as part of the next regularly scheduled general election for municipal officials that is held 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) Requires the ballot for an election ordered under this section to be printed to permit voting for or against the proposition. Sets forth the language of the ballot.

(d) Requires an election called 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 authorized under this section is held, to operate under the other provisions of this chapter only if a majority of the votes cast at the election favor the proposition.

(f) Prohibits an association, if an election authorized under this section is held, from submitting a petition for recognition to the governing body of the municipality under Section 147.004 before the second anniversary of the date of the election.

Sec. 147.007. CHANGE OR MODIFICATION OF RECOGNITION. (a) Authorizes municipal employees to modify or change the recognition of the association granted under this chapter by filing with the governing body of the municipality a petition signed by a majority of all covered employees.

(b) Authorizes the governing body of a municipality to recognize the change or modification as provided by the petition or order a certification election in accordance with Section 147.005 regarding whether to do so.

Sec. 147.008. STRIKES PROHIBITED. (a) Prohibits a municipal employee from engaging in a strike or organized work stoppage against this state or the 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. 147.009. RECOGNITION OF EMPLOYEE ASSOCIATION. (a) Requires a public employer in a municipality that chooses to meet and confer under this chapter to recognize an association that is recognized under Section 147.004 or 147.005 as the sole and exclusive bargaining agent for the covered employees.

(b) Requires the public employer to recognize the association until recognition of the association is withdrawn, in accordance with Section 147.007, by a majority of the municipal employees eligible to sign a petition for recognition.

Sec. 147.010. SELECTION OF BARGAINING AGENT. (a) Requires the public employer's chief executive officer or the chief executive officer's designee to select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of municipal employees.

(b) Authorizes an association to designate one or more persons to negotiate or bargain on the association's behalf.

Sec. 147.011. BARGAINING UNIT. (a) Provides that a municipality's bargaining unit is composed of all the covered employees.

(b) Authorizes the municipality and the recognized association, by agreement, to partition the bargaining into two or more separate bargaining units to facilitate negotiations and to safeguard rights of employees to effective representation. Provides that, if a bargaining agent has been recognized by the governing body, any partitioning of the bargaining unit does not alter the recognition of the bargaining agent.

Sec. 147.012. PROTECTED RIGHTS OF EMPLOYEES. (a) Prohibits a meet and confer agreement ratified under this chapter from interfering with the right of a member of a bargaining unit to pursue certain allegations of discrimination with the Texas Workforce Commission civil

rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

(b) Entitles a member of the bargaining unit, for the purposes of any disciplinary or individual grievance proceeding, to be represented by any person of the member's choice or by the recognized employee association.

Sec. 147.013. OPEN RECORDS. (a) Provides that a proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552 (Public Information), Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

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

Sec. 147.014. OPEN DELIBERATIONS. (a) Requires deliberations relating to a meet and confer agreement or proposed agreement under this chapter between representatives of the public employer and representatives of the association recognized under this chapter as the sole and exclusive bargaining agent for the covered employees to be open to the public and comply with state law.

(b) Prohibits Subsection (a) from being construed to prohibit the representatives of the public employer or the representatives of the recognized employee association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Sec. 147.015. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) Provides that an agreement under this chapter is enforceable and binding on the public employer, the recognized association, and the employees covered by the meet and confer agreement only under certain circumstances.

(b) Authorizes a meet and confer agreement ratified as described by Subsection (a) to establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) 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 the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the party when the action or omission is related to a right, duty, or obligation provided by the agreement. Authorizes the court to 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. 147.016. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS CHAPTER. (a) Authorizes the governing body of a municipality that granted recognition of an association under Section 147.004 without conducting an election under Section 147.006 to withdraw recognition of the association by providing to the association not less than 90 days' written notice containing certain information.

(b) Authorizes the governing body of a municipality that granted recognition of an association after conducting an election under Section 147.006 to order an election to determine whether a public employer may continue to meet and confer under this chapter. Prohibits the governing body from ordering an election under this subsection until the second anniversary of the date of the election under Section 147.006.

(c) Requires an election ordered under Subsection (b) 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.

(d) Requires the ballot for an election ordered under Subsection (b) to be printed to permit voting for or against the proposition. Sets forth the language of 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 chapter 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 147.004 before the second anniversary of the date of the election.

Sec. 147.017. ELECTION TO REPEAL AGREEMENT. (a) Authorizes a petition calling for the repeal of the agreement signed by at least 10 percent of the qualified voters residing in the municipality, not later than the 45th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized employee association, to be presented to the person charged with ordering an election under Section 3.004 (Election of Political Subdivision), Election Code.

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

(c) Authorizes an election called under Subsection (b)(2) to 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. Requires the ballot to be printed to permit voting for or against the proposition. Sets forth the language of the ballot.

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

Sec. 147.018. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. Provides that a written meet and confer agreement ratified under this chapter preempt, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by this state or a political subdivision or agent of this state, including certain entities and providing certain exceptions.

SECTION 2. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007