

AN ACT

relating to local control of firefighter and police officer employment matters in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 5, Local Government Code, is amended by adding Chapter 147 to read as follows:

CHAPTER 147. LOCAL CONTROL OF FIREFIGHTER AND POLICE OFFICER
EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES WITH POPULATION
OF ONE MILLION OR MORE

Sec. 147.001. APPLICABILITY. This chapter applies only to a municipality with a population of one million or more, but does not apply to a municipality that has adopted Chapter 143 or 174.

Sec. 147.002. DEFINITIONS. In this chapter:

(1) "Firefighter" means a firefighter employed by the municipality who is covered by the municipality's fire pension plan and is classified by the municipality as exempt. The term does not include a firefighter with a rank that is above that of battalion chief or section chief.

(2) "Firefighter employee group" means an organization:

(A) in which firefighters of the municipality have participated and paid dues via automatic payroll deduction for at least one year; and

(B) that exists for the purpose, in whole or in

1 part, of dealing with the municipality concerning grievances, labor
2 disputes, wages, rates of pay, hours of employment, or conditions
3 of employment affecting firefighters.

4 (3) "Police officer" means a sworn police officer
5 employed by the municipality who is covered by the municipality's
6 police pension plan and is classified by the municipality as
7 exempt. The term does not include a police officer with a rank
8 above that of captain, a civilian, or a municipal marshal.

9 (4) "Police officer employee group" means an
10 organization:

11 (A) in which at least three percent of the police
12 officers of the municipality have participated and paid dues via
13 automatic payroll deduction for at least one year; and

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

18 Sec. 147.003. MEET AND CONFER TEAM; NEGOTIATIONS. (a) A
19 meet and confer team is created under this section and consists of
20 the following members:

21 (1) members representing the firefighter employee
22 groups in the municipality, provided each group may appoint only
23 one firefighter of the municipality to serve as a member of the
24 team; and

25 (2) members representing the police officer employee
26 groups in the municipality, provided each group may appoint only
27 one police officer of the municipality to serve as a member of the

1 team.

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

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

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

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

22 Sec. 147.0031. PETITION FOR RECOGNITION: ELECTION OR ACTION
23 BY GOVERNING BODY. (a) Not later than the 30th day after the date
24 the governing body of a municipality receives from the meet and
25 confer team a petition signed by a majority of all police officers
26 and a majority of all firefighters, excluding the head of the police
27 department, the head of the fire department, and other excluded

1 employees as described by Section 147.0035(b), that requests
2 recognition of the meet and confer team as the sole and exclusive
3 bargaining agent for all the police officers and firefighters
4 employed by the municipality, excluding the head of the police
5 department, the head of the fire department, and other excluded
6 employees as described by Section 147.0035(b), the governing body
7 shall:

8 (1) grant recognition of the meet and confer team as
9 requested in the petition and determine by majority vote that the
10 municipality may meet and confer under this chapter without
11 conducting an election by the voters in the municipality under
12 Section 147.0033;

13 (2) defer granting recognition of the meet and confer
14 team and order an election by the voters in the municipality under
15 Section 147.0033 regarding whether the municipality may meet and
16 confer under this chapter; or

17 (3) order a certification election under Section
18 147.0032 to determine whether the employee groups in the meet and
19 confer team represent a majority of the covered police officers and
20 a majority of the covered firefighters.

21 (b) If the governing body of a municipality orders a
22 certification election under Subsection (a)(3) and the employee
23 groups that are part of the meet and confer team are certified to
24 represent a majority of the covered police officers and a majority
25 of the covered firefighters, the governing body shall, not later
26 than the 30th day after the date that results of that election are
27 certified:

1 (1) grant recognition of the meet and confer team as
2 requested in the petition for recognition and determine by majority
3 vote that the municipality may meet and confer under this chapter
4 without conducting an election by the voters in the municipality
5 under Section 147.0033; or

6 (2) defer granting recognition of the meet and confer
7 team and order an election by the voters in the municipality under
8 Section 147.0033 regarding whether a public employer may meet and
9 confer under this chapter.

10 Sec. 147.0032. CERTIFICATION ELECTION. (a) Except as
11 provided by Subsection (b), a certification election ordered under
12 Section 147.0031(a)(3) to determine whether the employee groups in
13 the meet and confer team represent a majority of the covered police
14 officers and a majority of the covered firefighters shall be
15 conducted according to procedures agreeable to the parties.

16 (b) If the parties are unable to agree on procedures for the
17 certification election, either party may request the American
18 Arbitration Association to conduct the election and to certify the
19 results of the election.

20 (c) Certification of the results of an election under this
21 section resolves the question concerning representation.

22 (d) Each employee group in the meet and confer team is
23 liable for the expenses of the certification election for the
24 employees the group represents.

25 Sec. 147.0033. ELECTION TO AUTHORIZE OPERATING UNDER THIS
26 CHAPTER. (a) The governing body of a municipality that receives a
27 petition for recognition under Section 147.0031 may order an

1 election to determine whether a public employer may meet and confer
2 under this chapter.

3 (b) An election ordered under this section must be held as
4 part of the next regularly scheduled general election for municipal
5 officials that is held after the date the governing body of the
6 municipality orders the election and that allows sufficient time to
7 prepare the ballot in compliance with other requirements of law.

8 (c) The ballot for an election ordered under this section
9 shall be printed to permit voting for or against the proposition:
10 "Authorizing _____ (name of the municipality) to operate under
11 the state law allowing a municipality to meet and confer and make
12 agreements with the meet and confer team representing municipal
13 police officers and firefighters as provided by state law,
14 preserving the prohibition against strikes and organized work
15 stoppages, and providing penalties for strikes and organized work
16 stoppages."

17 (d) An election called under this section must be held and
18 the returns prepared and canvassed in conformity with the Election
19 Code.

20 (e) If an election authorized under this section is held,
21 the municipality may operate under the other provisions of this
22 chapter only if a majority of the votes cast at the election favor
23 the proposition.

24 (f) If an election authorized under this section is held, a
25 meet and confer team may not submit a petition for recognition to
26 the governing body of the municipality under Section 147.0031
27 before the second anniversary of the date of the election.

1 Sec. 147.0034. WITHDRAWAL OF RECOGNITION. (a) The police
2 officers and firefighters may withdraw the recognition of the meet
3 and confer team granted under this chapter by filing with the
4 governing body of the municipality a petition signed by a majority
5 of all covered police officers and a majority of all covered
6 firefighters.

7 (b) The governing body of the municipality may:

8 (1) withdraw recognition as provided by the petition;

9 or

10 (2) order a certification election in accordance with
11 Section 147.0032 regarding whether to do so.

12 Sec. 147.0035. RECOGNITION OF MEET AND CONFER TEAM. (a) A
13 public employer in a municipality that chooses to meet and confer
14 under this chapter shall recognize the meet and confer team that is
15 recognized under Section 147.0031 or 147.0033 as the sole and
16 exclusive bargaining agent for the police officers and
17 firefighters, excluding the head of the police department, head of
18 the fire department, and the employees exempt under Subsection (b),
19 in accordance with this chapter and the petition.

20 (b) For the purposes of Subsection (a), exempt employees are
21 employees appointed by the head of the police department or fire
22 department in the classification immediately below that of
23 department head or that are exempt by the mutual agreement of the
24 meet and confer team and the municipality.

25 (c) The municipality shall recognize the meet and confer
26 team until recognition of the meet and confer team is withdrawn in
27 accordance with Section 147.0034 by a majority of the police

1 officers and a majority of the firefighters who are eligible to sign
2 a petition for recognition.

3 Sec. 147.004. GENERAL PROVISIONS RELATING TO AGREEMENTS,
4 RECOGNITION, AND STRIKES. (a) A municipality may not be denied
5 local control over the wages, salaries, rates of pay, hours of work,
6 and other terms of employment, or other state-mandated personnel
7 issues, if the municipality and the meet and confer team recognized
8 under Section 147.0031 or 147.0033 as the sole and exclusive
9 bargaining agent for the covered police officers and firefighters
10 come to a mutual agreement on any of the terms of employment. If an
11 agreement is not reached, the state laws, local ordinances, and
12 civil service rules remain unaffected. All agreements shall be
13 written. Nothing in this chapter requires either party to meet and
14 confer on any issue or reach an agreement.

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

18 (c) Firefighters and police officers of a municipality may
19 not engage in strikes against this state or a political subdivision
20 of this state. A firefighter or police officer who participates in
21 a strike forfeits all civil service rights, reemployment rights,
22 and any other rights, benefits, or privileges the firefighter or
23 police officer enjoys as a result of employment or prior
24 employment.

25 (d) In this section, "strike" means failing to report for
26 duty in concerted action with others, wilfully being absent from an
27 assigned position, stopping work, abstaining from the full,

1 faithful, and proper performance of the duties of employment, or
2 interfering with the operation of a municipality. However, this
3 section does not prohibit a firefighter or police officer from
4 conferring with members of the municipal governing body about
5 conditions, compensation, rights, privileges, or obligations of
6 employment.

7 Sec. 147.005. PAYROLL DUES DEDUCTIONS. The municipality
8 may not prevent automatic payroll deductions for dues paid to a
9 firefighter employee group or police officer employee group.

10 Sec. 147.006. RECORDS AND MEETINGS. (a) An agreement made
11 under this chapter is public information for purposes of Chapter
12 552, Government Code. The agreement and any document prepared and
13 used by the municipality in connection with the agreement, except
14 for materials created during a municipality's caucuses and notes
15 that are otherwise privileged by law, are available to the public in
16 accordance with Chapter 552, Government Code, only after the
17 agreement is ratified by both parties.

18 (b) This section does not affect the application of
19 Subchapter C, Chapter 552, Government Code, to a document prepared
20 and used by the municipality in connection with the agreement.

21 Sec. 147.007. ENFORCEABILITY OF AGREEMENT. (a) A written
22 agreement made under this chapter between a municipality and the
23 meet and confer team is enforceable and binding on the
24 municipality, the meet and confer team, firefighter employee
25 groups, police officer employee groups, and the firefighters and
26 police officers covered by the agreement if:

27 (1) the municipality's governing body ratified the

1 agreement by a majority vote; and

2 (2) the agreement is ratified under Section 147.008.

3 (b) A state district court of the judicial district in which
4 a majority of the population of the municipality is located has full
5 authority and jurisdiction on the application of either party
6 aggrieved by an action or omission of the other party when the
7 action or omission is related to a right, duty, or obligation
8 provided by any written agreement ratified as required by this
9 chapter. The court may issue proper restraining orders, temporary
10 and permanent injunctions, and any other writ, order, or process,
11 including contempt orders, that are appropriate to enforcing any
12 written agreement ratified as required by this chapter.

13 Sec. 147.008. ELECTION TO RATIFY AGREEMENT. (a) The meet
14 and confer team shall call an election to ratify any agreement
15 reached with the municipality if the agreement has been approved by
16 five-sevenths of the members of the meet and confer team.

17 (b) All firefighters and police officers of the
18 municipality are eligible to vote in the election.

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

22 (d) A firefighter or police officer who is not a member of a
23 firefighter employee group or a police officer employee group may
24 be assessed a fee for any cost associated with casting the
25 firefighter's or police officer's vote.

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

1 Sec. 147.009. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO
2 OPERATE UNDER THIS CHAPTER. (a) The governing body of a
3 municipality that granted recognition of a meet and confer team
4 under Section 147.0031 without conducting an election under Section
5 147.0033 may withdraw recognition of the meet and confer team by
6 providing to the meet and confer team not less than 90 days' written
7 notice that:

8 (1) the governing body is withdrawing recognition of
9 the meet and confer team; and

10 (2) any agreement between the governing body and the
11 meet and confer team will not be renewed.

12 (b) The governing body of a municipality that granted
13 recognition of a meet and confer team after conducting an election
14 under Section 147.0033 may order an election to determine whether a
15 public employer may continue to meet and confer under this chapter.
16 The governing body may not order an election under this subsection
17 until the second anniversary of the date of the election under
18 Section 147.0033.

19 (c) An election ordered under Subsection (b) must be held as
20 part of the next regularly scheduled general election for municipal
21 officers that occurs after the date the governing body of the
22 municipality orders the election and that allows sufficient time to
23 prepare the ballot in compliance with other requirements of law.

24 (d) The ballot for an election ordered under Subsection (b)
25 shall be printed to allow voting for or against the proposition:
26 "Authorizing _____ (name of the municipality) to continue to
27 operate under the state law allowing a municipality to meet and

1 confer and make agreements with the meet and confer team
2 representing municipal police officers and firefighters as
3 provided by state law, preserving the prohibition against strikes
4 and organized work stoppages, and providing penalties for strikes
5 and organized work stoppages."

6 (e) An election ordered under Subsection (b) must be held
7 and the returns prepared and canvassed in conformity with the
8 Election Code.

9 (f) If an election ordered under Subsection (b) is held, the
10 municipality may continue to operate under this chapter only if a
11 majority of the votes cast at the election favor the proposition.

12 (g) If an election ordered under Subsection (b) is held, a
13 meet and confer team may not submit a petition for recognition to
14 the governing body of the municipality under Section 147.0031
15 before the second anniversary of the date of the election.

16 Sec. 147.010. ELECTION TO REPEAL AGREEMENT. (a) Not later
17 than the 60th day after the date a meet and confer agreement is
18 ratified by the governing body of the municipality and the
19 firefighters and police officers under Section 147.008, a petition
20 calling for the repeal of the agreement signed by a number of
21 registered voters residing in the municipality equal to at least 10
22 percent of the votes cast at the most recent general election held
23 in the municipality may be presented to the person charged with
24 ordering an election under Section 3.004, Election Code.

25 (b) If a petition is presented under Subsection (a), the
26 governing body of the municipality shall:

27 (1) repeal the meet and confer agreement; or

1 (2) certify that the governing body is not repealing
2 the agreement and call an election to determine whether to repeal
3 the agreement.

4 (c) An election called under Subsection (b)(2) may be held
5 as part of the next regularly scheduled general election for the
6 municipality. The ballot shall be printed to provide for voting for
7 or against the proposition: "Repeal the meet and confer agreement
8 ratified on _____ (date agreement was ratified) by the
9 _____ (name of the governing body of the municipality) and the
10 police officers and firefighters employed by the City of _____
11 (name of municipality) concerning wages, salaries, rates of pay,
12 hours of work, and other terms of employment."

13 (d) If a majority of the votes cast at the election favor the
14 repeal of the agreement, the agreement is void.

15 Sec. 147.011. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a)
16 This chapter may not be construed to repeal any existing benefit
17 provided by statute or ordinance concerning police officers' or
18 firefighters' compensation, pensions, retirement plans, hours of
19 work, conditions of employment, or other emoluments except as
20 expressly provided in a ratified meet and confer agreement. This
21 chapter is in addition to the benefits provided by existing
22 statutes and ordinances.

23 (b) This chapter may not be construed to interfere with the
24 free speech right, guaranteed by the First Amendment to the United
25 States Constitution, of an individual firefighter or a police
26 officer to endorse or dissent from any agreement.

27 SECTION 2. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 866 was passed by the House on May 11, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 866 on May 25, 2007, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 866 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 21, Nays 9.

Secretary of the Senate

APPROVED: _____

Date

Governor