

By: Davis of Dallas

H.B. No. 866

A BILL TO BE ENTITLED

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, on or before September 1, 2007, firefighters of the municipality participated and paid dues via automatic payroll deduction; 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, on or before September 1, 2007,
12 police officers of the municipality participated and paid dues via
13 automatic payroll deduction; 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, other than concerns relating to affirmative action,
7 employment discrimination, hiring, and promotions. Only the meet
8 and confer team created under this section may represent the
9 firefighters or police officers of the municipality in the capacity
10 described by this subsection, except that the team may be
11 accompanied by legal counsel.

12 (c) Concerns relating to affirmative action, employment
13 discrimination, hiring, and promotions shall be negotiated 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. 147.004. GENERAL PROVISIONS RELATING TO AGREEMENTS,
23 RECOGNITION, AND STRIKES. (a) A municipality may not be denied
24 local control over the wages, salaries, rates of pay, hours of work,
25 and other terms of employment, or other state-mandated personnel
26 issues, if the municipality and the meet and confer team come to a
27 mutual agreement on any of the terms of employment. If an agreement

1 is not reached, the state laws, local ordinances, and civil service
2 rules remain unaffected. All agreements shall be written. Nothing
3 in this chapter requires either party to meet and confer on any
4 issue or reach an agreement.

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

8 (c) Firefighters and police officers of a municipality may
9 not engage in strikes against this state or a political subdivision
10 of this state. A firefighter or police officer who participates in
11 a strike forfeits all civil service rights, reemployment rights,
12 and any other rights, benefits, or privileges the firefighter or
13 police officer enjoys as a result of employment or prior
14 employment.

15 (d) In this section, "strike" means failing to report for
16 duty in concerted action with others, wilfully being absent from an
17 assigned position, stopping work, abstaining from the full,
18 faithful, and proper performance of the duties of employment, or
19 interfering with the operation of a municipality. However, this
20 section does not prohibit a firefighter or police officer from
21 conferring with members of the municipal governing body about
22 conditions, compensation, rights, privileges, or obligations of
23 employment.

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

27 Sec. 147.006. RECORDS AND MEETINGS. (a) An agreement made

1 under this chapter is public information for purposes of Chapter
2 552, Government Code. The agreement and any document prepared and
3 used by the municipality in connection with the agreement, except
4 for materials created during a municipality's caucuses and notes
5 that are otherwise privileged by law, are available to the public in
6 accordance with Chapter 552, Government Code, only after the
7 agreement is ratified by both parties.

8 (b) A meeting between the meet and confer team and any
9 persons designated to meet and confer on the municipality's behalf
10 is not subject to Chapter 551, Government Code.

11 (c) This section does not affect the application of
12 Subchapter C, Chapter 552, Government Code, to a document prepared
13 and used by the municipality in connection with the agreement.

14 Sec. 147.007. ENFORCEABILITY OF AGREEMENT. (a) A written
15 agreement made under this chapter between a municipality and the
16 meet and confer team is enforceable and binding on the
17 municipality, the meet and confer team, firefighter employee
18 groups, police officer employee groups, and the firefighters and
19 police officers covered by the agreement if:

20 (1) the municipality's governing body ratified the
21 agreement by a majority vote; and

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

23 (b) A state district court of the judicial district in which
24 a majority of the population of the municipality is located has full
25 authority and jurisdiction on the application of either party
26 aggrieved by an action or omission of the other party when the
27 action or omission is related to a right, duty, or obligation

1 provided by any written agreement ratified as required by this
2 chapter. The court may issue proper restraining orders, temporary
3 and permanent injunctions, and any other writ, order, or process,
4 including contempt orders, that are appropriate to enforcing any
5 written agreement ratified as required by this chapter.

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

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

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

15 (d) A firefighter or police officer who is not a member of a
16 firefighter employee group or a police officer employee group may
17 be assessed a fee for any cost associated with casting the
18 firefighter's or police officer's vote.

19 (e) The meet and confer team shall establish procedures of
20 the election by unanimous consensus.

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