

By: Davis of Dallas (Senate Sponsor - West) H.B. No. 866
(In the Senate - Received from the House May 14, 2007;
May 15, 2007, read first time and referred to Committee on
Intergovernmental Relations; May 18, 2007, reported favorably by
the following vote: Yeas 3, Nays 0; May 18, 2007, sent to
printer.)

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

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

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

(A) in which, on or before September 1, 2007, at
least three percent of the police officers of the municipality
participated and paid dues via automatic payroll deduction; and

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

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

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

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

(b) The meet and confer team represents all firefighters and
police officers in the municipality and shall negotiate with the
municipality in an effort to reach an agreement on concerns shared
by the firefighters and police officers regarding terms of
employment, including concerns relating to wages, benefits, and

other working conditions but excluding concerns relating to pensions. Only the meet and confer team created under this section may represent the firefighters or police officers of the municipality in the capacity described by this subsection, except that the team may be accompanied by legal counsel.

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

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

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

Sec. 147.004. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over the wages, salaries, rates of pay, hours of work, and other terms of employment, or other state-mandated personnel issues, if the municipality and the meet and confer team come to a mutual agreement on any of the terms of employment. If an agreement is not reached, the state laws, local ordinances, and civil service rules remain unaffected. All agreements shall be written. Nothing in this chapter requires either party to meet and confer on any issue or reach an agreement.

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

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

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

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

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

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

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

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

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

(2) the agreement is ratified under Section 147.008.
 (b) A state district court of the judicial district in which a majority of the population of the municipality is located has full authority and jurisdiction on the application of either party 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 any written agreement ratified as required by this chapter. The court may issue proper restraining orders, temporary and permanent injunctions, and any other writ, order, or process, including contempt orders, that are appropriate to enforcing any written agreement ratified as required by this chapter.

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

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

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

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

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

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

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