

By: Davis of Dallas

H.B. No. 1523

A BILL TO BE ENTITLED

AN ACT

relating to local control of firefighter 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

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 Sec. 147.003. MEET AND CONFER TEAM; NEGOTIATIONS. (a) A  
5 meet and confer team is created under this section and consists of  
6 members representing the firefighter employee groups in the  
7 municipality, provided each group may appoint only one firefighter  
8 of the municipality to serve as a member of the team.

9 (b) The meet and confer team represents all firefighters in  
10 the municipality and shall negotiate with the municipality in an  
11 effort to reach an agreement on concerns shared by the firefighters  
12 regarding terms of employment, other than concerns relating to  
13 affirmative action, employment discrimination, hiring, and  
14 promotions. Only the meet and confer team created under this  
15 section may represent the firefighters of the municipality in the  
16 capacity described by this subsection, except that the team may be  
17 accompanied by legal counsel.

18 (c) Concerns relating to affirmative action, employment  
19 discrimination, hiring, and promotions shall be negotiated by  
20 individual firefighter associations independent of the meet and  
21 confer team.

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

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

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

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

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

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

1       Sec. 147.005. PAYROLL DUES DEDUCTIONS. The municipality  
2 may not prevent automatic payroll deductions for dues paid to a  
3 firefighter employee group.

4       Sec. 147.006. RECORDS AND MEETINGS. (a) An agreement made  
5 under this chapter is public information for purposes of Chapter  
6 552, Government Code. The agreement and any document prepared and  
7 used by the municipality in connection with the agreement, except  
8 for materials created during a municipality's caucuses and notes  
9 that are otherwise privileged by law, are available to the public in  
10 accordance with Chapter 552, Government Code, only after the  
11 agreement is ratified by both parties.

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

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

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

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

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

26       (b) A state district court of the judicial district in which  
27 a majority of the population of the municipality is located has full

1 authority and jurisdiction on the application of either party  
2 aggrieved by an action or omission of the other party when the  
3 action or omission is related to a right, duty, or obligation  
4 provided by any written agreement ratified as required by this  
5 chapter. The court may issue proper restraining orders, temporary  
6 and permanent injunctions, and any other writ, order, or process,  
7 including contempt orders, that are appropriate to enforcing any  
8 written agreement ratified as required by this chapter.

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

13 (b) All firefighters of the municipality are eligible to  
14 vote in the election.

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

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

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

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