

**House Bill 866**  
Senate Amendments  
Section-by-Section Analysis

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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

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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 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

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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

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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 at least three percent of the police officers 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 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:

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(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

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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.

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(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. 147.0031. PETITION FOR RECOGNITION:  
ELECTION OR ACTION BY GOVERNING BODY.**

**(a) Not later than the 30th day after the date the governing body of a municipality receives from the meet and confer team a petition signed by a majority of all police officers and a majority of all firefighters, excluding the head of the police department, the head of the fire department, and other excluded employees as described by Section 147.0035(b), that requests recognition of the meet and confer team as the sole and exclusive bargaining agent for all the police officers and**

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firefighters employed by the municipality, excluding the head of the police department, the head of the fire department, and other excluded employees as described by Section 147.0035(b), the governing body shall:

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

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

or

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

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

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

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

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

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

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

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

Sec. 147.0033. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 147.0031 may order an election to determine whether a public employer may meet and confer under this chapter.

(b) An election ordered under this section must be held

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

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

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

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

Sec. 147.0034. WITHDRAWAL OF RECOGNITION.

(a) The police officers and firefighters may withdraw the recognition of the meet and confer team granted under

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this chapter by filing with the governing body of the municipality a petition signed by a majority of all covered police officers and a majority of all covered firefighters.

(b) The governing body of the municipality may:

(1) withdraw recognition as provided by the petition; or  
(2) order a certification election in accordance with Section 147.0032 regarding whether to do so.

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

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

(c) The municipality shall recognize the meet and confer team until recognition of the meet and confer team is withdrawn in accordance with Section 147.0034 by a majority of the police officers and a majority of the firefighters who are eligible to sign a petition for recognition.

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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

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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 recognized under Section 147.0031 or 147.0033 as the sole and exclusive bargaining agent for the covered police officers and firefighters 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

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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

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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.

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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

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(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.

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(d) A firefighter or police officer who is not a member

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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.

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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.

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

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

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

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

(c) An election ordered under Subsection (b) must 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

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election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the meet and confer team representing municipal police officers and firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

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

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

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

Sec. 147.010. ELECTION TO REPEAL AGREEMENT.

(a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the firefighters and police officers under 147.008, a petition calling for the repeal of the agreement signed by a number of registered voters

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residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

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

(1) repeal the meet and confer agreement; or

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

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

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

Sec. 147.010. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a) This chapter may not be construed to repeal any existing benefit provided by statute or ordinance concerning police officers' or firefighters' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments except

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as expressly provided in a ratified meet and confer agreement. This chapter is in addition to the benefits provided by existing statutes and ordinances.

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

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

Same as House version.