

## **BILL ANALYSIS**

C.S.H.B. 3686  
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Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Firefighters and police officers of the City of San Antonio are currently covered by meet and confer legislation, but there are no such provisions covering San Antonio's other municipal employees. Meet and confer for municipal employees was unanimously approved by the mayor and city council as part of the City of San Antonio's 2009 legislative priorities for the 81st Legislature, Regular Session.

C.S.H.B. 3686 grants a public employee association in a municipality with a population of more than one million that has adopted certain statutes relating to fire and police employees the right to meet and confer with a public employer over issues such as wages, hours, working conditions, and all other terms and conditions of employment. The bill prohibits strikes and work stoppages by employees who participate in these organizations.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3686 amends the Local Government Code to authorize a municipality with a population of more than one million that has adopted provisions of the Fire and Police Employee Relations Act and is not covered by certain other statutes relating to municipal employment matters to enter into a mutual agreement governing wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other state-mandated personnel issues with an employee association recognized as the sole and exclusive bargaining agent for all covered employees that does not advocate the illegal right to strike by municipal employees. The bill provides that a municipality may not be denied local control over such employment issues. The bill provides that applicable statutes, local orders or ordinances, and civil service rules govern a term or condition of employment on which the public employer and the association do not agree. The bill requires an agreement between a municipality and an employee association to be written. The bill does not require the municipality and the recognized employee association to meet and confer on any issue or reach an agreement on any issue and does not authorize an agreement regarding pension or pension-related matters governed by state law. The bill does not apply its provisions to firefighters or police officers covered by certain provisions of the Local Government Code relating to public employees or to an employee association in which such employees participate, or to employees of a municipally owned utility or other board or political subdivision whose wages, salaries, rates of pay, hours, working conditions, or other terms and conditions of employment are established and governed by an appointed board independent from the municipal governing body.

C.S.H.B. 3686 sets forth provisions for a petition by an employee association requesting recognition as the sole and exclusive bargaining agent for covered employees of the municipality. The bill requires the governing body, not later than the 30th day after receiving

from an employee association a petition signed by a majority of all covered employees of the municipality that requests recognition of the association as the sole and exclusive bargaining agent for all covered employees of that employer, to grant recognition of the association as requested in the petition and find that a public employer may meet and confer without conducting an election by the voters in the municipality as provided by the bill; defer granting recognition and order an election by the voters in the municipality regarding whether a public employer may meet and confer; or order a certification election as provided in the bill to determine whether the association represents a majority of the covered employees of the municipality. The bill requires the governing body, if the governing body orders a certification election and the association named in the petition is certified to represent a majority of the covered employees, not later than the 30th day after the date that results of that election are certified, to grant recognition of the association as requested in the petition and find that the municipality may meet and confer without conducting an election by the voters in the municipality or defer granting recognition of the association and order an election by the voters in the municipality regarding whether a public employer may meet and confer.

C.S.H.B. 3686 sets forth provisions governing a certification election and provides that an employee association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the employees eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election.

C.S.H.B. 3686 authorizes the governing body of a municipality that receives a petition for recognition to order an election to determine whether the municipality may meet and confer and sets forth provisions governing such an election. The bill prohibits an association, if an election is held, from submitting a petition for recognition to the governing body before the second anniversary of the date of the election.

C.S.H.B. 3686 authorizes covered employees to modify, change, or withdraw the recognition of the employee association granted under this chapter by filing a petition with the governing body signed by a majority of all covered employees. The bill authorizes the governing body to recognize the change, modification, or withdrawal as provided by the petition or order a certification election regarding whether to do so.

C.S.H.B. 3686 prohibits a municipal employee from engaging in a strike or organized work stoppage against Texas or the municipality and sets forth repercussions of such an engagement. The bill specifies that this provision does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

C.S.H.B. 3686 requires a public employer that chooses to meet and confer to recognize an association that is recognized by a grant of recognition or a certification election as the sole and exclusive bargaining agent for the covered employees of that employer. The bill requires the municipality to recognize the employee association until recognition of the association is withdrawn by a majority of the covered employees eligible to sign a petition for recognition. The bill sets forth provisions relating to selection of bargaining agents for the municipality and the employee association. The bill provides that the municipality's bargaining unit is composed of all the covered employees of the municipality.

C.S.H.B. 3686 prohibits a meet and confer agreement ratified under the bill from interfering with the right of a covered employee to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation. The bill sets forth provisions relating to open record laws as applicable to the agreement and related documents and open meeting laws as applicable to deliberations relating to a meet and confer agreement or proposed agreement. The bill specifies

that its provisions do not prohibit the representatives of the municipality or the representatives of the recognized employee association from conducting private caucuses that are not open to the public during meet and confer negotiations.

C.S.H.B. 3686 sets forth provisions relating to the ratification and enforceability of the agreement, including certain procedures for dispute resolution.

C.S.H.B. 3686 provides that a state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement 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 the agreement. The bill authorizes the court to issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

C.S.H.B. 3686 sets forth provisions for the withdrawal of recognition of the association by the governing body of a municipality. The bill authorizes a governing body that granted recognition of an employee association after conducting an election to order an election to determine whether a public employer may continue to meet and confer and sets forth procedures for the election. The bill prohibits the governing body from ordering such an election until the second anniversary of the date of the authorizing election. The bill prohibits an association from submitting a petition for recognition to the governing body before the second anniversary of the date of the election if such an election is held.

C.S.H.B. 3686 sets forth provisions relating to repealing an agreement based on a petition signed by at least 10 percent of the qualified voters residing in the municipality. The bill requires the governing body to repeal the meet and confer agreement or certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement, if such a petition is presented. The bill provides that if a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

C.S.H.B. 3686 declares that a written meet and confer agreement ratified in accordance with the bill's provisions preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local orders or ordinances, executive orders, civil service provisions, or rules adopted by this state or a political subdivision or agent of this state, including a civil service commission or home-rule municipality, other than a statute, ordinance, executive order, civil service provision, or rule regarding pensions or pension-related matters.

C.S.H.B. 3686 defines "confidential employee," "covered employee," "employee association," and "public employer" for the purposes of this bill.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3686 establishes that its provisions do not require a public employer and a recognized employee association to meet and confer on any issue, whereas the original establishes that its provisions do not require a public employer and a recognized employee association to meet and confer. The substitute prohibits a municipal employee, rather than a covered employee as in the original, from engaging in a strike or organized work stoppage and makes a conforming change.