

BILL ANALYSIS

C.S.H.B. 1329
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested observers have raised concerns regarding arbitration proceedings under The Fire and Police Employee Relations Act. C.S.H.B. 1329 seeks to provide a framework for an arbitration board to administer oaths and to subpoena documents and witnesses at the request of a party to the arbitration or a designee of a party to the arbitration.

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. 1329 amends the Local Government Code to require an arbitration board in a proceeding involving a public employer, on request by a party to the arbitration or a designee of a party, to administer oaths and issue subpoenas and subpoenas duces tecum for the attendance of witnesses and the production of books, records, documents, papers, accounts, and other evidence relevant and material to an issue presented to the board for determination. The bill's provisions apply only to a political subdivision that has adopted The Fire and Police Employee Relations Act and that borders the United Mexican States and has a population of more than 800,000 or that is located within such a political subdivision.

C.S.H.B. 1329 requires such a request, except for good cause shown, to be made not later than the 15th day before the date the arbitration hearing is scheduled to commence. The bill exempts from the subpoena issued by the arbitration board a person who is actively engaged in providing representation to a party to the arbitration as well as notes and other documents prepared by the person in the scope of the person's representation. The bill specifies that the oath administered by the arbitration board has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity and that a response to the subpoena duces tecum is considered to have been made under oath. The bill makes failure to appear as required by the subpoena a misdemeanor offense punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

C.S.H.B. 1329 specifies that its provisions supersede any conflicting provision in a collective bargaining agreement negotiated under The Fire and Police Employee Relations Act only to the extent that the agreement is inconsistent with the bill's provisions and that negotiated provisions of a collective bargaining agreement that are not inconsistent with the bill's provisions remain in full force and effect.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1329 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter E, Chapter 174, Local Government Code, is amended by adding Section 174.1575 to read as follows:
Sec. 174.1575. OATHS AND SUBPOENAS IN COUNTY ARBITRATION.

(a) An arbitration board in a proceeding involving a county public employer, on request by a party to the arbitration or a designee of a party, shall:

(1) administer oaths; and
(2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and the production of books, records, documents, papers, accounts, and other evidence relevant and material to an issue presented to the board for determination.

(b) Except for good cause shown, a request under Subsection (a) must be made not later than the 15th day before the date the arbitration hearing is scheduled to commence.

(c) The following are not subject to a subpoena under this section:

(1) a person who is actively engaged in providing representation to a party to the arbitration; and
(2) notes and other documents prepared by a person described by Subdivision (1) in the scope of the person's representation.

(d) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(e) A response to a subpoena duces tecum under this section is considered to have been made under oath.

(f) A person who is subpoenaed under this section commits an offense if the person fails to appear as required by the subpoena.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter E, Chapter 174, Local Government Code, is amended by adding Section 174.1575 to read as follows:
Sec. 174.1575. OATHS AND SUBPOENAS IN ARBITRATION FOR CERTAIN POLITICAL SUBDIVISIONS.

(a) This section applies only to a political subdivision that has adopted this chapter under Section 174.051 and that:

(1) borders the United Mexican States and has a population of more than 800,000; or
(2) is located within a political subdivision described by Subdivision (1).

(b) An arbitration board in a proceeding involving a public employer, on request by a party to the arbitration or a designee of a party, shall:

(1) administer oaths; and
(2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and the production of books, records, documents, papers, accounts, and other evidence relevant and material to an issue presented to the board for determination.

(c) Except for good cause shown, a request under Subsection (b) must be made not later than the 15th day before the date the arbitration hearing is scheduled to commence.

(d) The following are not subject to a subpoena under this section:

(1) a person who is actively engaged in providing representation to a party to the arbitration; and
(2) notes and other documents prepared by a person described by Subdivision (1) in the scope of the person's representation.

(e) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(f) A response to a subpoena duces tecum under this section is considered to have been made under oath.

(g) A person who is subpoenaed under this section commits an offense if the person fails to appear as required by the subpoena.

An offense under this section is a misdemeanor punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

(g) This section supersedes any conflicting provision in a collective bargaining agreement negotiated under this chapter only to the extent that the agreement is inconsistent with this section. Negotiated provisions of a collective bargaining agreement that are not inconsistent with this section remain in full force and effect.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

An offense under this section is a misdemeanor punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

(h) This section supersedes any conflicting provision in a collective bargaining agreement negotiated under this chapter only to the extent that the agreement is inconsistent with this section. Negotiated provisions of a collective bargaining agreement that are not inconsistent with this section remain in full force and effect.

SECTION 2. Same as introduced version.