

SUBJECT: Meet-and-confer employment agreements for fire fighters

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 6 ayes — Carter, Burnam, Edwards, Ehrhardt, Hodge, Najera
1 nay — Clark
2 absent — Bailey, Hill

SENATE VOTE: On final passage, April 14 — 21-5 (Haywood, Ogden, Ratliff, Shapiro, Wentworth)

WITNESSES: For — Ken Bailey, Texas State Association of Fire Fighters; Larry Keith, Beaumont Professional Fire Fighters
Against — Larry Casto, City of Dallas; John Knight, City of Lubbock; Eric Metzger, Flower Mound and Mayor Lori Deluca; Joe Paniagua, Fort Worth City Council

BACKGROUND: When a political subdivision adopts the Fire and Police Employee Relations Act (Local Government Code, chapter 174), it must organize and engage in collective bargaining with fire fighters and police officers. The governing body of a political subdivision must order an election for the adoption of chapter 174 upon receiving a petition signed either by 20,000 qualified voters or by 5 percent of the qualified voters voting in the political subdivision in the preceding general election for state and county officers. About 20 cities in Texas have adopted collective bargaining under this law.

Subchapter H of Local Government Code, chapter 143 governs local control of fire fighter employment matters in cities with at least 1.5 million residents. It provides that a fire fighters association submitting a petition signed by the majority of paid fire fighters in the city may be recognized as the sole bargaining agent for all of the covered fire fighters. Written agreements made between a public employer and an association recognized as a bargaining agent are enforceable and binding if both the city’s governing body and the fire fighters association ratify the agreement by majority vote. Such an

agreement can be repealed if a certain number of registered voters petition to call an election to repeal the agreement and if a majority vote to do so.

Subchapter I of chapter 143, which governs both fire fighter and police officer employment matters in cities with at least 460,000 residents, is similar to Subchapter H.

DIGEST:

SB 553 would add a new chapter 176 to the Local Government Code entitled Local Control of Fire Fighter Employment Matters. The chapter would not apply to political subdivisions that had adopted the Fire and Police Employee Relations Act, nor to cities subject to subchapters H and I of chapter 143 of the Local Government Code.

SB 553 would provide that a public employer and a fire fighters association designated as a “sole and exclusive meet and confer agent” could attempt to reach a written agreement on terms of employment. If an agreement were not reached, local ordinances and civil-service rules would remain unaffected, and neither party would have to meet again or reach an agreement on any issue. An initial agreement could not exceed a term of two years unless the parties agreed to extend the agreement for one more year. All deliberations between the two parties relating to an agreement would have to be open to the public and held in compliance with any applicable state statutes.

If a political subdivision chose to meet and confer under this chapter, a fire fighters association submitting a petition signed by a majority of the fire fighters employed by the political subdivision would have to be recognized as the sole and exclusive meet-and-confer agent for all the fire fighters. The fire fighters department head and assistant department head, however, could not sign the petition. Recognition of the association could be withdrawn only by a majority of the fire fighters.

A political subdivision could not be denied local control over wages, salaries, rates of pay, hours of work, diversity programs, or other terms of employment to the extent that the fire fighters association and the political subdivision came to a mutual agreement on any of the terms of employment.

Disagreements between a public employer and a fire fighters association would have to be handled in the state district court of the judicial district in which a majority of the population of the political subdivision was located.

The court could issue restraining orders, injunctions, and any other appropriate order to enforce the written agreement.

SB 553 would define a fire fighters association as an organization that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, and other working conditions. A fair election would have to be held to find out whether a fire fighters association represented a majority of fire fighters, and the bill would lay out procedures for that election. The fire fighters association would have to pay the costs of the election.

The bill would define a public employer as any political subdivision, commission, or any governmental entity controlled by a political subdivision that dealt with fire fighter employment, diversity, benefits, and other working conditions. A public employer could include a mayor, various city officials, the city council, a commissioners court, or a director of personnel.

A written agreement between the two parties would be enforceable and binding if both the political subdivision's governing body and the fire fighters association ratified the agreement by a majority vote. The fire fighters association would have to ratify the agreement by a secret-ballot election limited to fire fighters of the political subdivision.

A written agreement between a public employer and a fire fighters association would, during the term of the agreement, supersede a previous statute concerning terms and conditions of employment and affirmative action programs. Such an agreement also would preempt all contrary local ordinances, executive orders, civil-service provisions, or rules adopted by a political subdivision, personnel board, or civil service commission. An agreement could not, however, diminish any rights or privileges of employees under civil-service statutes or state law unless it was approved by a majority of votes in a secret-ballot election on the agreement by the members of the fire fighters association.

Fire fighters could not engage in strikes or organized work stoppages against either the state or a political subdivision. A fire fighter who participated in a strike would forfeit all civil service rights, employment rights, and any other rights, benefits, or privileges enjoyed as result of his or her employment or prior employment. However, this would not affect the right of an individual to

cease work if he or she were not acting in concert with others in an organized work stoppage.

A public employer could meet and confer only if the fire fighters association recognized as the sole and exclusive meet-and-confer agent did not advocate the illegal right to strike by public employees.

This bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

SB 553 would allow cities and fire fighter associations to negotiate labor issues in a cooperative manner and would give both parties more control over working conditions. The bill would be permissive rather than mandatory, and both sides would have to agree first to participate in meet-and-confer negotiations. If the two parties could not agree, the city could withdraw at any time with no repercussions, and current work rules would continue to apply.

SB 553 would not require a city to agree to anything and would not deny a city's local control over wages, salaries, pay rates, or other conditions of employment. A "meet and confer" process is a legitimate form of negotiation in which fire fighter associations may represent important employee and public priorities that the most conscientious of local officials can overlook. The bill would allow fire fighters, who risk their lives in their jobs, to voice their concerns about their working conditions to their employers. An agreement would last only two years and could be renegotiated at the end of that time if either party were unhappy with it.

These kinds of written agreements would allow both parties to tailor their programs on a local level rather than having to adhere to rigid civil-service employment laws. Under current law, the two parties may not make a written agreement of this kind unless they have adopted mandatory collective bargaining. SB 553 would give them another, voluntary option to increase their local control over hiring practices.

The cities of Houston and Austin have used meet-and-confer negotiations with police officer and fire fighter associations with complete success. Indeed, Austin had been in litigation for years over its hiring procedures for fire fighters until the city adopted the meet-and-confer process.

Allowing an association to sign an enforceable agreement with a city on a

variety of labor issues would help both city management and fire fighters by establishing principles and guidelines that would not have to be revisited annually or by new administrations. Doing this also could help stabilize the budget process and other city deliberations as well as improve working conditions for fire fighters.

OPPONENTS
SAY:

Meet-and-confer arrangements would be inappropriate for many local governments. City council members, for example, are elected by the public to run city operations and establish public policy. Fire fighter unions or associations are not accountable to the public and owe allegiance only to those who join those organizations or whom they represent. Public officials and the staff who report to them should be the sole arbiters on employee wages, benefits, and other conditions of employment.

Allowing an association to sign an enforceable agreement with a city on fire fighters' terms of employment would limit local governments' flexibility to manage their budgets and operations. Although the language of the bill is permissive, it could lead to fire fighters unions putting such intense political pressure on city council members that the cities would be forced to adopt the meet-and-confer process. If the Legislature enacted SB 533, those same fire fighters associations would work to make the process mandatory.

Cities need the flexibility to manage their police and fire departments as they see fit, without having to bargain with unions to do so. If police officers and fire fighters wish to engage in collective bargaining, they should work to adopt the Fire and Police Employee Relations Act. They should not try to impose the meet-and-confer process, which, although it is voluntary, is a watered-down kind of collective bargaining.