

SUBJECT: Allowing meet-and-confer negotiations for city peace officers

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 4 ayes — Talton, Van Arsdale, Menendez, Hunter

1 nay — Wong

2 absent — Bailey, Edwards

SENATE VOTE: On final passage, May 23 — voice vote

WITNESSES: *(On companion bill, HB 1643:)*

For — Ron DeLord, Combined Law Enforcement Associations of Texas and Houston Police Officers Union

Against — None

BACKGROUND: Under Government Code, sec. 617.002, a city official may not enter into a collective bargaining contract with a labor organization in regard to wages, hours, or conditions of employment of public employees. Violation of the prohibition voids the contract. Nor may a city official recognize a labor organization as the bargaining agent for a group of public employees. Statutes exempt police officers and firefighters from these prohibitions.

Under the Fire and Police Employee Relations Act (Local Government Code, ch. 174), firefighters and police officers may organize and bargain collectively with their public employers regarding compensation, hours, and other conditions of employment. Municipalities may adopt this act to make this authority effective — 12 municipalities have done so.

The Municipal Civil Service Law (Local Government Code, ch. 143), contains provisions allowing Austin, Houston, and Fort Worth to recognize police officer or firefighter committees. These cities can elect to “meet and confer” with the committees to reach agreements regarding compensation and other conditions.

DIGEST: CSSB 562 would add Local Government Code, ch. 145, applying only to municipalities with populations greater than 10,000 that have adopted ch. 143 but have not adopted collective bargaining under ch. 174 or the meet-and-confer authorization of ch. 143.

Officers' committee. CSSB 562 would authorize a peace officer's bargaining committee comprising peace officers employed by the city. The committee could meet and confer with the municipality about officer grievances, labor disputes, wages, rates of pay, hours of work, or working conditions.

A petition for recognition, signed by a majority of peace officers employed by the municipality, would have to designate a minimum of five officers to serve on the officers' bargaining committee. The committee would represent all officers as the sole bargaining agent for peace officers. CSSB 562 would require the city to recognize the selected bargaining committee, unless a majority of peace officers withdrew it.

Members of a peace officer's bargaining committee would have to reflect the cultural and ethnic diversity of the law enforcement agency. The committee would have to include other police organizations' members, if those organizations represented racial minority peace officers and included at least 30 percent of the minority peace officers employed by the municipality.

Agreements. The bill explicitly would not require a public employer or a recognized peace officer's bargaining committee to meet and confer on any issue or to reach any agreement. Any agreement between a city and the officer's bargaining committee would be enforceable and binding on the city, committee, and peace officers if the municipal governing body ratified the agreement by majority vote and the peace officer's bargaining committee ratified the agreement by conducting a secret-ballot election among peace officers of the municipality.

The bill would give jurisdiction to district court to hear and resolve a dispute over a ratified agreement. The court could order remedies to enforce an agreement. By public petition, the governing body of a municipality could vote to repeal the agreement. If the governing body chose not to repeal the agreement, voters would decide whether to repeal it in the next general election or at a special election called by the municipal governing body.

A ratified agreement would have to include a review and oversight process by the public; a competitive and fair promotion process; a hiring process designed to encourage recruitment of women and minorities; and a prohibition against interfering with a bargaining committee member's right to pursue alleged discrimination to the Equal Employment Opportunity Commission or to pursue affirmative-action litigation. The peace officer's bargaining committee could meet and confer only if the committee did not advocate an illegal strike by public employees.

A public employer's bargaining committee that met and conferred would have to represent the municipality and recognize the peace officer's bargaining committee. An agreement would preempt, during the term of the agreement, all contrary state statutes, local ordinances, executive orders, civil service provisions, and rules adopted by the municipality or its agencies.

CSSB 562 would prohibit denying a municipality control over employment terms and conditions, including wages and salaries, unless agreed to by the parties.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSSB 562 would extend to many more municipalities a workable system that would allow peace officers to negotiate collectively with municipalities and to form contracts covering wages, hours, and other conditions of employment. Cities that employ meet-and-confer negotiations avoid the mandates and formalities required under collective bargaining, yet they gain the opportunity to finalize a comprehensive employment contract with a large number of city employees. Importantly, the process would not compel either party — the municipality or the peace officer's bargaining committee — to reach any agreement. Nor would it even require peace officers to form a committee. The bill merely would facilitate efficient communication between cities and police officers in reaching agreement on employment matters, should they choose to do so. Currently, the bill would apply to 57 municipalities.

The bill would require ample protections to ensure that city peace officers and the municipality received fair treatment under any collective negotiation that occurred. The public could review any agreement reached; city voters could veto an agreement by petition; and participants in the negotiating committees

would have to be ethnically diverse. Cities that have adopted collective bargaining or meet-and-confer negotiations for police officers and firefighters have not reported complaints from other city employees or suffered any reduction in services provided by officers who work to protect the safety and welfare of citizens.

**OPPONENTS
SAY:**

CSSB 562 would erode state law prohibiting collective negotiation by public employees, which exists to help ensure the health, safety, and welfare of communities. In giving specific groups of employees a privilege to bargain collectively for wages and other demands, cities increasingly would have to satisfy these groups through concessions at the expense of other municipal employees and the services they provide for city residents. Also, the bill could be regarded as giving unequal treatment to certain classes of civil servants.

State legislation should not seek to affect the local affairs of home-rule municipalities unless it is absolutely necessary to do so. Employment relations between a municipal governing body and city employees is precisely such a local affair.

NOTES:

The committee substitute would delete certain provisions from the Senate engrossed version, including provisions requiring that:

- a meet-and-confer agreement would prohibit racial profiling and allow the termination of an employee guilty of racial profiling;
- the public and the municipal governing body be represented on the public employer's bargaining committee; and
- the public employer's bargaining committee be culturally or ethnically diverse to the extent of the municipality.

The companion bill, HB 1643 by Bailey, failed to pass to engrossment in the House on May 10 by a vote of 51-57-2.