

- SUBJECT:** Authorizing meet and confer for Austin EMS personnel
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 6 ayes — Bailey, Murphy, Cohen, Latham, Mallory Caraway, Martinez Fischer
- 0 nays
- 1 absent — Menendez
- WITNESSES:** For — Bryan Fitzpatrick, Teresa Marsoobian, and Chebon C. Tiger, Austin-Travis County EMS Employees Association. (*Registered, but did not testify*: Charley Wilkinson, Combined Law Enforcement Associations of Texas)
- Against — None
- BACKGROUND:** Under Government Code, sec. 617.002, a city official may not enter into a collective bargaining contract with a labor organization regarding wages, hours, or conditions of employment of public employees. Any contract so reached is void. A city official also may not recognize a labor organization as the bargaining agent for a group of public employees. Certain statutes exempt police officers and fire fighters from these prohibitions.
- The Municipal Civil Service Law, under Local Government Code, ch. 143, allows certain municipalities to recognize police officer or firefighter committees. These cities can elect to “meet and confer” with the committees to reach agreements on compensation and other conditions. Provisions governing meet and confer procedures and the scope of applicability of such agreements vary by municipality.
- DIGEST:** CSHB 1079 would create Local Government Code, chap. 142, subch. C, specifying conditions for meet and confer agreements between Emergency Medical Service (EMS) personnel and a municipality with a population greater than 460,000 that operated under a city manager form of government, and that employed EMS in a department other than the fire department (Austin).

Establishing and withdrawing meet and confer. The public employer could recognize an association that submitted a petition signed by a majority of the paid EMS personnel in the municipality, excluding executive-level employees. The association would be the exclusive bargaining agent and would represent EMS personnel in meet and confer negotiations with the public employer. Recognition of the association could be withdrawn by a majority of the covered EMS personnel.

The exclusive bargaining agent would be decided by a majority election held among qualified EMS employees. In the absence of agreement on election procedures, parties could request the American Arbitration Association (AAA) to conduct the election and certify results. The public employer's chief executive and the head of the EMS department would designate a group of persons to represent the employer in all negotiations.

A meet and confer agreement could be repealed by the electorate within 45 days of being ratified. A petition signed by at least 10 percent of the qualified voters of the municipality would prompt the governing body to reconsider and either repeal the agreement or call an election to determine whether an agreement should be repealed.

Agreements. The bill explicitly would not require a public employer or a recognized EMS bargaining association to meet and confer or reach an agreement on any issue. Any agreement between a city and EMS bargaining association would be enforceable and binding on the city and EMS only if:

- the bargaining association had not advocated an illegal strike;
- the governing body of the municipality ratified the agreement by majority vote; and
- the recognized EMS bargaining agent ratified the agreement by a secret ballot election of the EMS of the municipality.

EMS personnel governed by a meet and confer agreement would not be permitted to engage in a strike or organized work stoppage against any political subdivision. Any documents used in connection with a proposed agreement would be available to the public as open records after the agreement was ratified.

A meet and confer agreement could include a procedure by which the parties agreed to resolve disputes, including binding arbitration. The bill

would give jurisdiction to the state district court to hear and resolve a dispute over a ratified agreement. The court could order restraining orders or other injunctions to enforce the agreement.

Applicability. A ratified meet and confer agreement would supersede all contrary state statutes, local ordinances, and other provisions. It would not affect existing employee benefits. A meet and confer agreement could not diminish or qualify any rights, benefits, or privileges conferred on employees by statute unless it were approved by a majority vote of association members. An agreement would not interfere with the rights of any association member to pursue allegations of discrimination or affirmative action litigation.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 1079 would extend to the city of Austin a workable system to allow EMS personnel to negotiate with the city's governing body and form contracts covering wages, hours, and other conditions of employment. The vast majority of municipalities that have adopted meet and confer agreements have covered EMS personnel through their employment with the fire department. The bill would correct the unfair omission of EMS employees from Austin's meet and confer agreement for police and fire caused by the separation of the EMS and the Austin Fire Department. EMS personnel in Austin would be afforded the same treatment as similar workers in other municipalities that have adopted meet and confer agreements.

Cities that employ meet and confer negotiations avoid the mandates and other formalities required under collective bargaining, yet gain the chance to finalize a comprehensive employment contract with a large number of city employees. The process would compel neither party — the municipality nor EMS' bargaining association — to reach any agreement, nor would it require EMS personnel to appoint an exclusive bargaining agent. The bill appropriately would give the City of Austin another option for efficient communication with its EMS employees in reaching agreements on employment matters, should it so choose.

The bill also would include ample protections for the public and governing bodies of the city of Austin. All documents related to an agreement would

be accessible following ratification and the public could petition to repeal any agreement reached. The city of Austin passed a resolution in support of the extension of the meet and confer agreement and historically has had much success in similar negotiations with its police and fire employees.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The companion bill, SB 1104 by Watson, passed the Senate on the Local and Uncontested Calendar on April 19 and was reported favorably, without amendment, by the House Urban Affairs Committee on May 2, making it eligible to be considered in lieu of HB 1079.

HB 1079 originally was recommended for the Local and Consent Calendars Committee, which transferred it to the Calendars Committee.